

Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Bill

Government Bill

As reported from the Finance and Expenditure Committee

Commentary

Recommendation

The Finance and Expenditure Committee has examined the Taxation (Annual Rates for 2017-18, Employment and Investment Income, and Remedial Matters) Bill and recommends that it be passed with the amendments shown.

Introduction

This omnibus bill seeks to amend various taxation-related Acts and regulations. It would set the annual rates of income tax for the 2017–18 tax year (at the same rates as for 2016–17), and make several other policy and remedial changes. The main proposals in the bill are:

- measures to improve administration of the pay-as-you-earn (PAYE) rules, in particular through the provision of employment information to Inland Revenue
- changes to improve the collection of information about investment income
- changes to the taxation of employee share schemes.

The bill would make several other policy changes, and a number of remedial amendments designed to ensure that the tax rules work as intended.

Amendments covered by this commentary

This commentary discusses the more significant amendments we recommend to the bill. It does not cover minor, technical, or consequential amendments.

Employment income information

The bill would make some significant changes to the way PAYE is administered. The changes include requiring employers to report PAYE information more frequently (on

a payday basis, rather than the current monthly basis) and, with some exceptions, to file information electronically.

Many of these provisions are in clause 200, which would insert new subpart 3C in the Tax Administration Act 1994.

We discuss below some amendments we recommend to improve the workability of the proposals and to reduce compliance costs, particularly for smaller employers.

Out-of-cycle payments

The bill as introduced creates a requirement to report out-of-cycle payments on a payday basis. We consider that, for businesses with many irregular payments, this would significantly increase compliance costs. We recommend amending clause 200, new section 23IB, to allow employers to include reporting on out-of-cycle payments of wages and salary with the next regular payday report, except where this would carry information over beyond the end of a PAYE payment period.

Schedular payments and employee share scheme benefits

Schedular payments are payments made to a person who is self-employed rather than an employee. They are common in a number of fields, including cleaning contracts, farm and forestry work, labour-only building work, and commission payments to sales agents.

To reduce compliance costs for employers who make a number of schedular payments and employers with employee share schemes that do not have fixed vesting dates, we recommend amending clause 200, new sections 23C, 23IB, and 23J, to provide for schedular payments and employee share scheme benefits to be reported twice monthly.

Employers who report non-electronically

The bill as introduced would require any employer below the electronic filing threshold to file within 7 working days of the date on which the deductions were made. We consider that many employers who file on paper would be overburdened by weekly reporting. We therefore recommend amending clause 200, section 23F(2), to allow employers 10 working days to file.

Again to reduce compliance costs, we recommend inserting section 23F(2B) to provide the option of twice-monthly reporting for employers who file on paper, treating the 15th and last day of each month as paydays. As a consequence of this change, we recommend amending section 23F(1)(b) so that any employer below the electronic filing threshold who chose to file electronically through Inland Revenue's secure electronic portal (myIR) would be classified as part of the online group and would have 2 working days to file.

Shadow payrolls for non-resident employers

We accept that payday reporting would be difficult for non-resident employers who operate a shadow payroll for their employees working in New Zealand.¹ We recom-

mend adding new section 23IB to allow an extra 20 days for the reporting of shadow payrolls, and adding the option of twice-monthly reporting of shadow payrolls.

Special tax codes or tax rates

We recommend amending clause 148 to make it clear that payments with a special tax rate of zero, or a tax code that requires no tax to be withheld, must still be reported.

Reporting of employment income information

For clarity, we recommend an amendment to schedule 4, inserted by clause 284, to allow the Commissioner of Inland Revenue to request other particulars relating to employment income information as required. As introduced, the bill could be interpreted as limiting the request to information about an employer or class of employers.

Payroll subsidy

As introduced, clause 168 would repeal the payroll subsidy available to listed PAYE intermediaries who assume PAYE obligations for employers. The subsidy is available for intermediaries taking on the payroll obligations of employers who had a total PAYE and Employer Superannuation Contribution Tax of \$500,000 or less for the previous tax year.

We note concerns about the removal of the subsidy. We agree that removing the payroll subsidy while employers are adjusting from monthly to payday filing could impose an unnecessary burden, particularly for smaller employers. We propose that the subsidy be retained temporarily, but in a more targeted form, during the transition to the new PAYE information requirements.

We therefore recommend amending clause 168, and the related commencement clause 2 (subclauses 26, 28, and 29). These changes would retain the payroll subsidy during the implementation of payday filing, and would target the subsidy to smaller employers for 2019 by lowering the threshold. We propose that the payroll subsidy be repealed in 2020, as we consider that this would provide employers with enough time to adjust to the new system.

Investment income information

The bill proposes several changes to the way information about investment income is administered. Such income includes interest, dividends, portfolio investment entity (PIE) income, taxable Māori authority distributions, and royalties.

We recommend a number of amendments to clause 212, which would insert new Subpart 3E, “Investment income information”, into the Tax Administration Act.

¹ A “shadow” payroll can be used to report employment income information for New Zealand-based employees of a non-resident employer. The shadow payroll in New Zealand shadows, or mirrors, the employer’s payroll in the country from which employees are actually paid.

Detailed financial arrangement information

Clause 212 would move section 53 of the Tax Administration Act to new section 250. This provision requires detailed information on the financial arrangements of persons with resident-withholding-tax-exempt status. However, we understand that it is unnecessary for Inland Revenue’s purposes, and accordingly we recommend that it be removed from the bill.

Dividend and Māori authority distribution information

The monthly reporting proposed under this bill would request much of the information on dividends that is already required in company dividend statements and the information about Māori authority distributions that is required in Māori authority distribution statements. We recommend amending clause 212, sections 25G and 25I, to remove the requirement to provide company dividend statements and Māori authority distribution statements. Instead, the additional material in the company dividend statements and the Māori authority distribution statements that is not covered by the proposed monthly reporting would be added to the monthly reporting requirements.

We recommend inserting new section 25KB to require annual reporting of taxable deemed dividends for public unit trusts by 15 May after the end of the relevant tax year.

We recommend amending the definition of “investment income” in new section 25C to make it clear that foreign companies are not required to provide detailed investor information.

Information requirements

The bill as introduced does not specify whether monthly investment income information should be provided cumulatively or on a month-by-month basis. We recommend inserting new section 25D(1B) to require reporting in a month-by-month format. Allowing only one format would reduce the risk of error.

To reduce compliance costs for payers, we recommend inserting new section 25D(4). This would remove the requirement to include certain data in reported investment income information if the information had been collected before 1 April 2018 and had not been recorded in electronic form.

It is not always practical or possible for nominees to provide information about the ultimate investors, often because of other countries’ privacy laws. We recommend inserting new section 25F(2) to provide that, when an investor is a nominee, the approved issuer levy information required for investors—as specified in new section 25E(1)(b)—must be held only in relation to the nominee, unless the payer has access to information on the ultimate investor.

Investment income information for small amounts of interest

Clause 158 provides that a person who pays passive income in the form of interest in relation to a taxable activity would be required to withhold resident withholding tax (RWT) for this passive income and report monthly to Inland Revenue. We identified a

number of potential circumstances where the limited nature of the income would render this inappropriate. We recommend inserting clause 158(1B) to provide that the resident passive income related to the activity must be more than \$5,000 for the tax year.

Exempt status from resident withholding tax

We recommend amending clause 212 to remove proposed section 25M. We acknowledge that it would be useful for Inland Revenue to receive information about some members who are exempt from resident withholding tax (RWT-exempt status), but consider that it would be difficult to single out these people.

For reasons of privacy, we recommend amending new section 32H(1) to require the Commissioner to publish only the IRD number of a person with RWT-exempt status, along with the start and end dates of their RWT exemption. This would be enough to allow payers to verify a person's RWT-exempt status.

RWT-exempt status of tertiary education subsidiaries

We recommend amending section 32E through clause 218 of the bill to enable tertiary education subsidiaries to qualify for RWT-exempt status.

Electronic filing exemptions

Clauses 200, 212, and 231 deal with exemptions from electronic filing for certain employers, certain investment information, and certain registered persons. They would insert new sections 23G, 25Q, and 36BD in the Tax Administration Act.

We accept the view of the Regulations Review Committee that any exemption should include the reason why it was granted, and it should be made clear that the exemptions are not disallowable instruments. Exemptions should also be able to be limited to a specific period of time.

We recommend amending clauses 200, 212, and 231 accordingly. The reasons for granting exemptions from electronic filing would be: that there were problems with the nature, availability, or reliability of digital services; that the person's ability to use a computer was hindered in some way; or that the cost of filing electronically would be unreasonable in the person's circumstances.

Transitional provisions

We make the following recommendations to help employers and Inland Revenue transition to the new electronic filing rules:

- We recommend amending clauses 268(5) and 269(8) to give the Commissioner discretion in applying late filing and non-electronic filing penalties. This would encourage a focus on education, rather than punishment for not complying.
- We recommend limiting early adoption of payday filing to employers who use payroll systems or who file electronically through myIR (clause 282, new section 227C(1)).

- We recommend amending clause 282 to add new section 227C(2B) and amend new section 227C(6). This would ensure that the legislation worked as intended for voluntary adoption of payday filing.

Employee share schemes

We agree with the view that the definition of “employee share scheme” (ESS) in the bill as introduced is too wide, and would unintentionally capture share transfers that are gifts. We recommend amending clause 14, inserting section CE 7, to limit the definition to employee share arrangements that are entered into by an employee or a contractor (or an associate of the employee or contractor), if the arrangement is in connection with the employee’s or contractor’s employment or service.

We recommend amending clauses 41 and 42, inserting new sections DV 27 and DV 28, to specify that the establishment costs of an employee share scheme are subject to the standard tests for whether an item is deductible, including the usual capital/revenue tests.

Concern was expressed about the complexity of the adjustments needed to a company’s available subscribed capital balance when a company acquires shares for the purposes of an ESS. We recommend amending clause 10, new section CD 43(6EB), to allow an exemption when shares under the ESS are issued for market value.

Petroleum mining decommissioning

Clause 172 would amend several definitions in section YA 1 of the Income Tax Act 2007. We recommend some adjustments to these definitions.

In particular, we propose several amendments to the definition of “decommissioning” in clause 172(8) to reflect the scope of activities that petroleum mining decommissioning covers, and to maintain consistency with references to the activity in other parts of the legislation.

Tax credits received when company has breached shareholder continuity

We recommend inserting clause 166B, amending section RM 15 of the Income Tax Act 2007, to provide that a petroleum or mineral miner would not be prevented from having tax credits refunded due solely to breaching shareholder continuity rules.

As it stands, the Income Tax Act has the effect of negating a refund received from refundable tax credits where a breach of shareholder continuity has caused imputation credits to be lost. We understand that this was not the intent of the legislation. To rectify this, we recommend adding clauses 117B and 120B, amending sections OB 37 and OP 35 of the Act.

Demergers by listed Australian companies

Clause 45 of the bill proposes a change in the rules for certain transfers of shares to New Zealand shareholders as a result of a company split (demerger) by a listed Australian company. It would overcome tax problems for such shareholders by not treating the transfers of shares as a dividend.

Treatment of available subscribed capital

As introduced, the bill proposes that a nil balance would be ascribed to the available subscribed capital (ASC) of a demerged company. The ASC of the original company would remain unchanged following the demerger.

The bill's approach is based on the view that ascribing an ASC amount to the demerged company would be impractical, as the information to support such a value would not be readily available. However, we accept that, if taxpayers are able to calculate and attribute relevant ASC values to the original company and the demerged company, these values should be recognised for income tax purposes.

We therefore recommend amending clause 45(1), new section ED 2B(5) of the Income Tax Act 2007, to allow for ASC values of a demerged company to be recognised for income tax purposes where the information is available and the calculation of the ASC is practical.

Proportion of shareholding requirement

The bill as introduced proposes that shareholders' interests in a demerged company must be exactly the same proportion as the shareholding immediately before the demerger. We consider that this does not recognise potential situations where a small number of shareholders are ineligible to participate in the demerger. We recommend amending clause 45(1) to allow for non-participating shareholders not to be counted in a demerger, and to disregard immaterial deviations in participating shareholding proportions immediately before and immediately after a demerger.

Appendix

Committee process

The Taxation (Annual Rates for 2017-18, Employment and Investment Income, and Remedial Matters) Bill was referred to the Finance and Expenditure Committee of the 51st Parliament on 24 May 2017. The bill was reinstated with this committee in the 52nd Parliament.

The closing date for submissions was 5 July 2017. The committee received and considered 36 submissions from interested groups and individuals. It heard oral evidence from 16 submitters.

The committee received advice from the Inland Revenue Department and its specialist tax adviser, Therese Turner (Chartered Accountant). The Regulations Review Committee reported to the committee on the powers contained in clauses 200 and 231, new sections 23G and 36BD.

Committee membership

Michael Wood (Chairperson)

Kiritapu Allan

Andrew Bayly

Rt Hon David Carter

Tamati Coffey

Hon Steven Joyce

Barbara Kuriger

Willow-Jean Prime

Dr Deborah Russell

David Seymour

Fletcher Tabuteau

Dr Duncan Webb

Lawrence Yule

**Taxation (Annual Rates for 2017–18, Employment and
Investment Income, and Remedial Matters) Bill**

Key to symbols used in reprinted bill

As reported from a select committee

text inserted unanimously

~~text deleted unanimously~~

Hon Stuart Nash

Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Bill

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act **2017**.

2 Commencement

5

(1) This Act comes into force on the date on which it receives the Royal assent, except as provided in this section.

(2) **Section 187(6)** is treated as coming into force on 1 April 1995.

(3) **Section 253** is treated as coming into force on 1 April 2003.

(4) **Section 258** is treated as coming into force on 21 December 2004.

10

(5) **Sections 315C and 316** are treated as coming into force on 1 April 2005.

(6) **Section 259** is treated as coming into force on 26 April 2005.

(7) **Sections 5C, 6(1B) and (3), 9B, 10B(2), 39, 40, 44, 53, 56, 65, 66, 67, 68(4) to (5), 69, 73, 73B, 75, 96, 98, 99, 106(2) to (4), 112(1B), 112B(3), 116, 117, 118, 119, 120, 120C, 121, 128, 134B, 150E, 172(4) and (8B), 174, 177, 178, 181(6), 189, 211(1), 218(3), 225(2), and 252, and 261D(1)** are treated as coming into force on 1 April 2008.

15

(7B) **Sections 25C and 218(3B)** are treated as coming into force on 1 July 2008.

- (7C) **Section 183(1B)** is treated as coming into force on 3 July 2008.
- (8) **Sections 54 and 119B** is are treated as coming into force on 1 April 2009.
- (8B) **Section 60B** is treated as coming into force on 30 June 2009.
- (9) **Sections 58(2)–and (3), 59, and 112(1) and (1C), and 112B(1), (2), and (4)** are treated as coming into force on 1 July 2009. 5
- (9B) **Section 278B** is treated as coming into force on 6 October 2009.
- (10) **Section 254(1)** is treated as coming into force on 9 December 2009.
- (10B) **Sections 84B, 84C, 84D, and 203(1B)** are treated as coming into force on 1 April 2010.
- (11) **Section 89** is treated as coming into force on 1 June 2010. 10
- (12) **Section 172(54)** is treated as coming into force on 1 July 2010.
- (13) **Section 261** is treated as coming into force on 7 September 2010.
- (14) **Sections 28C, 55, 55B, 56B, 56C, 79B and 172(11)(a) and (b), (55B), and (56)** are treated as coming into force on 1 April 2011.
- (15) **Sections 26–and, 30, and 181B** are treated as coming into force on 1 April 2012. 15
- (16) **Section 172(10)** is treated as coming into force on 1 July 2013.
- (17) **Sections 46 and 59B** is are treated as coming into force on 1 April 2014.
- (18) **Sections 22, 90, 109, and 172(2), (18), (30), and (36)** are treated as coming into force on 14 April 2014. 20
- (19) **Sections 24, 47, 114, 115, 117C, and 172(15), (26), and (27)** are treated as coming into force on 1 April 2015.
- (20) **Section 71** is treated as coming into force on 1 October 2015.
- (21) **Sections 8, 29, 45(1), 63, 172(3), and 182, 236B, and 254(1A)** are treated as coming into force on 1 April 2016. 25
- (21B) **Section 90** is treated as coming into force on 6 April 2016.
- (21C) **Section 261D(2)** is treated as coming into force on 3 May 2016.
- (22) **Section 42** is treated as coming into force on the date of introduction of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2017. 30
- (23) **Sections 5, 149(2), and 181(3)** are treated as coming into force on 2 June 2016.
- (23B) **Section 172(38B)** is treated as coming into force on 1 July 2016.
- (23C) **Sections 14B and 25B** are treated as coming into force on 21 March 2017.
- (23D) **Sections 28B, 47B, 63B to 63E, 63G, 113B, 113C, 129B, 129C, 150C, 150D, 164B, 170B, 172(11B), (16B), (27B), and (61B), 235B, 310B, 314D, 314E, 314F, 316B, 316E, and 316F** are treated as coming into force on 30 March 2017. 35

- (24) **Sections 5B, 16, 43, 45(2), 47C, 62, 62B, 76, 78, 91, 91B, 104(1B), 105B, 155(2) and (3), 159, 160, 172(7B), (26B), (31), (33), (33B), (38), and (55), 179, 180(1), 183(1) and (2), 260, 264B, 309B, 313, and 314** come into force on 1 April 2017.
- (24B) **Section 183(1C)** is treated as coming into force on 11 August 2017. 5
- (25) **Sections 7, 10, 11(1) and (2)(a) and (b), 12, 14, 15, 23, 28, 32, 41, 60, 70, 74, 131, 133, 135, 172(9), (13), (46), (50), (57), (59), (61), and (62), and 235** come into force 6 months after the date of Royal assent.
- (26) **Sections 17, 18, 19, 20, 21, 32C, 33, 34, 35, 36, 37, 38, 48, 48B, 49, 50, 51, 52, 57, 76B, 81, 85, 92, 93, 95, 97, 100, 101, 102, 103, 104, 113, 117B, 120B, 128B, 129(1), 134, 140, 142, 144, 151(1), 152, 166B, 167, 168, 171, 172(7), (7C), (8), (20), (23), (24), (28), (29), (32), (42), (44), (45), (47), (48), (49), (63), (64), and (68), 187(21B), (22) and (25), 188, 190, 191, 193, 203(1B), 215, 239, 241, 246(4), 264C, 264D, 264E, 266, 273, 274, 277B, 280, 281, 282, 293, 294(1), 301, 304, 304B, 306(1), 316C, 316D, 317, and 318 and 319** come into force on 1 April 2018. 10 15
- (27) **Sections 308 and 310** come into force on 1 July 2018.
- (28) **Sections 11(1B) and (2)(ab), 13, 27B, 63F, 94, 105, 107, 108, 110, 111, 127, 129(2), 130, 132, 136, 137, 138(3), 139, 141, 143, 144B, 145(2) and (3), 146, 147, 148, 149(1), (3), and (4), 150, 151(2), 151B, 153(3B), 168C, 169, 170, 172(14), (17), (19), (22), (39), (40), (41), 181(1), (2), (4), (5), and (7), 185B, 187(3), (4), (5), (12), (14), (19), (21), (23), and (24), 187B, 192, 194, 195, 196, 197, 199, 200, 201, 204, 205, 206(1), 207, 208, 209, 216, 225(4), 226(1), 228, 230, 233, 234, 236, 237, 238, 255, 257, 261B, 261C, 262, 267, 268, 269(1), (5), and (6), 270, 271, 271B, 272, 275(2), 275B, 277, 278, 279, 283, 284(1)(a) to (c), 286, 287, 288, 289, 290, 291, 292, 294(2), 295, 296, 297, 298, 299, 300, 303, 305, 306(2)(3), 314B, and 315** come into force on 1 April 2019. 20 25 30
- (29) **Sections 72, 79, 84E, 122B, 123, 124(2) and (3)(1) and (2B), 125, 126, 129(1), 151(1), 153(1), (2), and (3), 154, 155(1) and (4), 156, 157, 158, 161, 162, 163, 164, 166, 167, 168B, 168D, 171, 172(6), (21), (32), (34), (42), (51), (52), (53), (64), and (65), 180(2), 187(1B), (2), (7), (8), (9), (11), (13), (15), (16), (17), and (20), (22), and (25), 188, 190, 191, 193, 198, 206(2), 210, 211(2) to (5), 212, 213, 214, 218(1) and (2), 219, 220, 221, 222, 223, 224, 226(2) and (3), 229, 240, 242, 243, 245, 246(1) to (3), (5) and (6), 247, 249, 250, 251, 253B, 256, 264(2), 269(2) and (8), 275(3), 280, 281, and 284(1)(d) and (2), 317, and 318** come into force on 1 April 2020. 35 40

Part 1
Annual rates of income tax

3 Annual rates of income tax for 2017–18 tax year

Income tax imposed by section BB 1 (Imposition of income tax) of the Income Tax Act 2007 must, for the 2017–18 tax year, be paid at the basic rates specified in schedule 1 of that Act. 5

Part 2
Amendments to Income Tax Act 2007

4 Income Tax Act 2007

Part 2 amends the Income Tax Act 2007. 10

5 Section BF 1 amended (Other obligations)

In section BF 1, in the list of defined terms, delete “withdrawal tax”.

5B Section CB 32C amended (Dividend income for first year of look-through company)

(1) Replace section CB 32C(5)(b) with: 15

(b) **reserves imputation credit** is the total amount given by the formula in **subsection (7B)**, up to the maximum permitted ratio for the untaxed reserves under section OA 18 (Calculation of maximum permitted ratios) and is treated as an attached imputation credit included in the dividend calculated under this section. 20

(2) Replace section CB 32C(7)(a)(ii) with:

(ii) it met all of its liabilities at market value, including income tax liabilities for the disposal year but excluding income tax liabilities that would arise solely from meeting all of its liabilities at market value or from disposing of all of its property; and 25

(3) After section CB 32C(7), insert:

Formula

(7B) For the purposes of **subsection (5)(b)**, the amount of reserves imputation credit is calculated using the formula—
current credits + future amounts. 30

Definition of items in formula

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

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

- (b) **future amounts** is an amount of income tax payable for an earlier income year but not paid on or before the relevant day, less refunds due for the earlier income year but paid after the relevant day.
- (4) In section CB 32C(9)—
- (a) in paragraph (a)(i) replace “imputation credit account” with “imputation credit account on the relevant day”;
- (b) in paragraph (a)(ii) replace “before” with “on or before”.
- (5) In section CB 32C(10) replace “In subsections (7) and (9)(a)” with “In this section”.
- (6) In section CB 32C(11), in the words before the paragraphs, replace “subsection (9)(a)(ii)” with “**subsections (7C)(b) and (9)(a)(ii)**”.
- (7) **Subsections (1) to (6)** apply for the 2017–18 and later income years.
- 5C Section CD 5 amended (What is a transfer of value?)**
- (1) In section CD 5(2B), replace “cancellation of a share of the shareholder’s rights” with “cancellation of a share or the shareholder’s rights”.
- (2) **Subsection (1)** applies for the 2008–09 and later income years.
- 6 Section CD 15 amended (Tax credits linked to dividends)**
- (1) Replace section CD 15(1) with:
- Imputation credits and withholding taxes*
- (1) The amount of a dividend ~~is increased by~~ includes—
- (a) an imputation credit attached to the dividend;
- (b) an amount of RWT or NRWT, as applicable, withheld from or paid in relation to the dividend.
- (1B) After section CD 15(3), insert:
- Beneficiary income*
- (3B) Despite **subsection (1)(b)** and for the purposes of **section HC 6** (Beneficiary income), an amount excluded from beneficiary income under **section HC 6(2)(c)** is not included in the amount of a dividend.
- (2) In section CD 15, in the list of defined terms, insert “NRWT”, “pay”, and “RWT”, “RWT substitution payment”, and “tax credit”.
- (3) **Subsection (1B)** applies for the 2008–09 and later income years but does not apply to a person and an income year in relation to a tax position taken by the person—
- (a) in a return of income filed before 1 April 2019 for the 2008–09 or later income years; and

- (b) relating to the treatment of tax credits for resident passive income in a way that is not consistent with the amendments made in this Act for the treatment of those tax credits; and
- (c) relying on section CD 15 as it was before the amendment made by **subsection (1B)**.

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7 Section CD 25 amended (Treasury stock acquisitions)

- (1) Replace section CD 25(1)(a) with:

(a) the shares acquired by the company are held by the company in itself, including shares acquired by the company as the result of the application of **section CE 6** (Trusts are nominees) and, in the case of shares acquired other than as result of the application of **section CE 6**, section 67A(1) of the Companies Act 1993 or section 24 of the Co-operative Companies Act 1996 apply to provide that the shares are not deemed to be cancelled; and

10

- (2) Replace section CD 25(2)(b) with:

(b) at the first anniversary, the company has failed to transfer a share of the same class in an arm’s length transfer and has failed to allocate a share or right to a share, of the same class to an employee share scheme beneficiary under an employee share scheme, except if the company is established under New Zealand co-operative company legislation; or

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- (3) After section CD 25(6), insert:

Employee share schemes

- (7) For the purposes of **subsection (2)**, if the company has, before the first anniversary, allocated a share or right to a share to an employee share scheme beneficiary under an employee share scheme but subsequently the allocation is cancelled, the shares acquired under **subsection (1)** by the company are treated as acquired by the company on the date of cancellation for the amount the company paid for their acquisition under **subsection (1)**.

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- (4) In section CD 25, in the list of defined terms, insert “employee share scheme” and “employee share scheme beneficiary”.

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8 New section CD 29C inserted (Transfers to shareholders by ASX-listed Australian company of shares in subsidiary)

- (1) After section CD 29B, insert:

CD 29C Transfers to shareholders by ASX-listed Australian company of shares in subsidiary

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When an ASX-listed Australian company makes a transfer to shareholders of shares in a subsidiary company, the transfer is not a dividend if **section**

	ED 2B (Transfers to shareholders by ASX-listed Australian company of shares in subsidiary) applies to the transfer.	
	Defined in this Act: ASX-listed Australian company, company, dividend, share, shareholder	
(2)	Subsection (1) applies for the 2016–17 and later income years.	
9	Section CD 36 amended (Foreign investment fund income)	5
(1)	In section CD 36(1)(b)(iv), replace “method.” with “method; and”.	
(2)	After section CD 36(1)(b)(iv), insert:	
	(d) the amount is excluded income under section CX 57B (Amounts derived during periods covered by calculation methods).	
(3)	In section CD 36, in the list of defined terms, insert “excluded income”.	10
9B	Section CD 39 amended (Calculation of amount of dividend when property made available)	
(1)	In section CD 39(9)(c)(ii), replace “fully-imputed” with “fully imputed”.	
(2)	In section CD 39, in the list of defined terms, replace “fully-imputed dividend” with “fully imputed”.	15
(3)	Subsections (1) and (2) apply for the 2008–09 and later income years.	
10	Section CD 43 amended (Available subscribed capital (ASC) amount)	
(1)	Before section CD 43(7), insert:	
	<i>Subscriptions amount increase: employee share scheme</i>	
(6E)	Unless subsection (6EB) applies, when the company is part of an employee share scheme, the subscriptions amount includes, in addition to any amount under subsection (2)(b), when the company is part of an employee share scheme, the following amounts:	20
(a)	if the company has a deduction under section DV 27(6) (Employee share schemes) (the employer company) for the employee share scheme and employee, then the subscriptions amount includes the positive amount calculated using the formula in subsection (6F) , and the subscriptions amount is—	25
	(i) for shares of the same class as the shares issued under the employee share scheme by the employer company; or	30
	(ii) if the employer company does not issue shares under the employee share scheme, for shares of the class most similar to the shares issued under the employee share scheme:	
(b)	the subscriptions amount for shares of the same class as the shares issued by the company under the employee share scheme (the issuer company) includes the amount of the employer company’s deduction under section DV 27(6) for the employee share scheme and employee, if,—	35
	(i) the issuer company is not the employer company; and	

- (ii) the company is a member of a wholly-owned group of companies of which the employer company is a member; and
- (iii) before the application of section YC 4 (Look-through rule for corporate shareholders), no member of the wholly-owned group has a voting interest in the issuer company.

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*Exception to **subsection (6E)** by election*

(6EB) **Subsection (6E)** does not apply if—

- (a) the shares issued under the employee share scheme are issued for market value or a reasonable estimate of market value; and
- (b) the company elects to apply this subsection.

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Formula: employer companies

(6F) For the purposes of **subsection (6E)(a)**, the amount is calculated using the formula—

subscription amount – consideration paid.

Definition of items in formula

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(6G) In the formula in **subsection (6F)**,—

- (a) **subscription amount** is the amount of the company’s deduction under **section DV 27(6)** for the employee share scheme and employee:
- (b) **consideration paid** is the amount of consideration paid by the company to another company that is a member of the same-wholly owned group of companies (the **payee company**) for the issue of the shares to the employee under the employee share scheme.

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Employer companies’ negative amounts

(6H) If the amount calculated using the formula in **subsection (6F)** is negative, then the absolute value of the amount is subtracted from the company’s subscriptions amount for the issue of shares of the class most similar to the shares issued under the employee share scheme.

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Formula: employer companies’ negative amounts

(6I) If the amount calculated using the formula in **subsection (6F)** is negative, then a positive amount calculated using the formula in this subsection is a dividend paid by the company to the payee company—

formula amount – ASC.

30

Definition of items in formula

(6J) In the formula in **subsection (6I)**,—

- (a) **formula amount** is the absolute value of the amount calculated using the formula in **subsection (6F)**:

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- (b) **ASC** is the amount of available subscribed capital under this section, before the application of **subsection (6H)**, for shares of the class most similar to the shares issued under the employee share scheme.
- (2) After section CD 43(20), insert:
- Subscriptions amount exclusion: employee share scheme* 5
- (20B) The subscriptions amount does not include an amount of consideration that the company received for the issue of shares, if the payer of the consideration for the issue of shares is a member of the same wholly-owned group of companies as the company, and the company has, before the application of section YC 4 to the company, voting interests in the payer. 10
- (3) After section CD 43(28), insert:
- Subscriptions amount decrease: employee share scheme*
- (29) An amount equal to the amount of the company’s income under **section CV 20** (Employee share schemes) or equal to the amount of income under **section CV 20** for another company in the same wholly-owned group of companies, as the case may be, is subtracted from the subscriptions amount— 15
- (a) for shares of the same class as the shares issued under the employee share scheme by the company; or
- (b) if the company does not issue shares under the employee share scheme, for shares of the class most similar to the shares issued under the employee share scheme. 20
- (4) In section CD 43, in the list of defined terms, insert “deduction”, “employee”, “employee share scheme”, “voting interest” and “wholly-owned group of companies”.
- 10B Section CD 44 amended (Available capital distribution amount)** 25
- (1) After section CD 44(8B), insert:
- Capital gain amount: FIF income calculated using fair dividend rate or cost methods*
- (8C) A company derives a capital gain amount for the purposes of this section in relation to an attributing interest in a FIF for which the company uses the fair dividend rate method or the cost method to calculate their FIF income for a period. The capital gain amount is an amount equal to the greater of— 30
- (a) the total amount of dividends and gains on disposal derived from the interest in the period that is excluded income under **section CX 57B** (Amounts derived during periods covered by calculation methods) reduced by the total amount of FIF income the company has from that interest for the same period; and 35
- (b) zero.

<i>Gains on disposal</i>	
(8D)	For the purposes of subsection (8C)(a) , a gain on disposal is the difference between the consideration on disposal of the interest and the cost of acquisition of the interest.
(2)	In section CD 44(9)(a), replace “the adjusted tax value” with “for property that is a building for which no depreciation loss arises under section EE 48(2) and (3) (Effect of disposal or event), the adjusted tax value”.
(3)	In section CD 44(18), replace “revenue account property.” with “revenue account property, and includes an attributing interest in a FIF for which income is calculated using either the fair dividend rate method or the cost method.”
(4)	In section CD 44, in the list of defined terms, insert “attributing interest”, “cost method”, “fair dividend rate method”, “FIF”, “FIF income”.
(5)	Subsection (2) applies for the 2008–09 and later income years.
11	Section CE 1 amended (Amounts derived in connection with employment)
(1)	In section CE 1(1)(d), replace “a share purchase agreement” with “an employee share scheme”.
(1B)	After section CE 1(3), insert:
<i>Persons on shadow payrolls</i>	
(3B)	A PAYE income payment that is paid by a non-resident employer to a person who undertakes employment services in New Zealand but who remains on the employer’s payroll system in a country or territory outside New Zealand is treated as derived by the person on the 20th day after payment when the employer chooses to deliver their employment income information under section 231B(3) of the Tax Administration Act 1994.
(2)	In section CE 1, in the list of defined terms,—
(a)	insert “employee share scheme”:
(ab)	insert “employer”, “employment income information”, “New Zealand”, “non-resident”, and “PAYE income payment”:
(b)	delete “share purchase agreement”.
11B	Section CE 2 amended (Value and timing of benefits under share purchase agreements)
(1)	Repeal section CE 2(7).
(2)	In section CE 2, in the list of defined terms, delete “share purchase scheme”.
12	Sections CE 2 to CE 4 replaced
	Replace sections CE 2 to CE 4 with:

CE 2 Benefits under employee share schemes*Benefit*

- (1) A person who is an employee share scheme beneficiary described in **section CE 7(a)(i) or (ii)** receives a benefit for the purposes of **section CE 1(1)(d)** in relation to shares or related rights under the employee share scheme equal to the positive amount calculated on the share scheme taxing date using the formula— 5

share value – consideration paid + consideration received – previous income.

Definition of items in formula

- (2) In the formula in **subsection (1)**,— 10
- (a) **share value** is the market value of the shares or related rights owned by an employee share scheme beneficiary on the share scheme taxing date, if the share scheme taxing date is not triggered by a transfer or cancellation of the shares or related rights: 15
- (b) **consideration paid** is the amount of consideration paid or payable by an employee share scheme beneficiary in relation to the transfer of the shares or related rights under the employee share scheme: 15
- (c) **consideration received** is the amount of consideration paid or payable to an employee share scheme beneficiary in relation to a transfer or cancellation of the shares or related rights under the employee share scheme, not including relevant shares or related rights under a replacement employee share scheme: 20
- (d) **previous income** is the total amount of income under section CE 1(1)(d) that the employee share scheme beneficiary has in relation to the shares or related rights before the date that is 6 months after the date of Royal assent for the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act **2017**. 25

Negative amount: deduction

- (3) A negative amount calculated using the formula in **subsection (1)** is a deduction of the person. 30

Positive and negative amount: cost of revenue account property

- (4) A positive or negative amount calculated using the formula in **subsection (1)** is added to the consideration paid by the person for acquiring the shares, for the purposes of section DB 23 (Cost of revenue account property). 35

Apportionment

- (5) For the person's benefit under **subsection (1)**, the portion of that benefit calculated using the formula is treated as non-residents' foreign-sourced income—

$\text{benefit before reduction} \times \text{offshore period} \div \text{earning period}$.

Definition of items in formula

- (6) In the formula in **subsection (5)**,—
- (a) **benefit before reduction** is the amount of the benefit under **subsection (1)**:
 - (b) **offshore period** is the number of days in the item **earning period** on which—
 - (i) the person is not resident in New Zealand; and
 - (ii) any services the person performs for the relevant employer give rise to an amount of income that is a foreign sourced amount:
 - (c) **earning period** is the period ending with the vesting of shares or relevant rights in the employee share scheme beneficiary and starting with the earlier of—
 - (i) the first date used to measure the person’s right in relation to the vesting of shares or relevant rights:
 - (ii) the first date that the person has a right in relation to the vesting of shares or relevant rights.

When subsection (8) applies

- (7) **Subsection (8)** applies when an employer to whom section RD 22(2B) (Returns for amounts of tax paid to Commissioner) and section 46(1) of the Tax Administration Act 1994 apply—
- (a) has made an election under section RD 7B (Treatment of certain benefits under employee share schemes) to withhold and pay an amount of tax in relation to a benefit received by an employee share scheme beneficiary under this section; or
 - (b) is required to furnish an employer monthly schedule under section 46(6B) of the Tax Administration Act 1994 in relation to a benefit received by an employee share scheme beneficiary under this section.

Deferral of income recognition

- (8) Despite **section CE 1(1)(d)**, the employee share scheme beneficiary is treated as deriving employment income in relation to the benefit in the PAYE income payment form period after the 1 in which they receive the benefit.

Defined in this Act: amount, amount of tax, consideration, deduction, employee, employee share scheme, employee share scheme beneficiary, employer, employer monthly schedule, employment income, foreign-sourced amount, income, market value, non-residents’ foreign-sourced income, pay, PAYE income payment form period, replacement employee share scheme, resident in New Zealand, share, share scheme taxing date

13 Section CE 2 amended (Benefits under employee share schemes)

- (1) Replace **section CE 2(7)**, other than the heading, with:
- (7) **Subsection (8)** applies when an employer is required to provide employment income information under **sections RD 22(2)** (Providing employment income

	information to Commissioner) and 23E to 23H of the Tax Administration Act 1994, as modified by section 23J of that Act, in relation to a benefit received under an employee share scheme.	
(2)	In section CE 2(8) , replace “in the PAYE income payment form period after the 1 in which they receive the benefit” with “on the ESS deferral date”.	5
(3)	After section CE 2(8) , insert: <i>Meaning of ESS deferral date</i>	
(9)	For the purposes of this section and sections RD 6 and RD 7B (which relate to employee share schemes), the ESS deferral date is the 20th day after the share scheme taxing date for the employee share scheme beneficiary.	10
(4)	In section CE 2, in the list of defined terms,— (a) insert “employment income information” and “ESS deferral date”; (b) delete “employer monthly schedule” and “PAYE income payment form period”.	
13B	<u>Section CE 5 amended (Meaning of expenditure on account of an employee)</u>	15
	<u>In section CE 5, in the list of defined terms, delete “associated person”, “close company”, “dividend”, “life insurance policy”, “superannuation category 1 scheme”, “superannuation category 2 scheme”, “superannuation category 3 scheme”, and “trustee”.</u>	20
14	Sections CE 6 and CE 7 replaced Replace sections CE 6 and CE 7 with:	
CE 6	Trusts are nominees A trustee is treated as the nominee of a company (company A) to the extent to which the trustee’s activities relate to an employee share scheme and— (a) shares or related rights in company A are issued or transferred under the scheme; (b) shares or related rights are issued or transferred to company A’s employees, shareholder-employees, or associates of them, under the scheme. Defined in this Act: associated person, company, employee, employee share scheme, share, shareholder-employee, <u>trustee</u>	25 30
CE 7	Meaning of employee share scheme Employee share scheme means— (a) an arrangement with a purpose or effect of issuing or transferring shares in a company (company A) to a person—	35

- (i) who will be, is, or has been an employee of company A or of another company that is a member of the same group of companies as company A, if the arrangement is connected to the person’s employment or service:
 - (ii) who will be, is, or has been a shareholder-employee in relation to company A or in relation to another company that is a member of the same group of companies as company A, if the arrangement is connected to the person’s employment or service: 5
 - (iii) who is an associate of a person described in **subparagraph (i) or (ii) (person A)**, if the arrangement is connected to person A’s employment or service; but 10
 - (b) does not include an arrangement that—
 - (i) is a ~~share purchase scheme~~ an exempt ESS:
 - (ii) requires market value consideration to be paid by a person described in **paragraph (a)** for the transfer of shares in the company on the share scheme taxing date: 15
 - (iii) requires a person described in **paragraph (a)** to put shares, acquired by them for market value, at risk if the arrangement provides no protection against a fall in the value of the shares. 20
- Defined in this Act: arrangement, associated person, company, consideration, employee, employment, exempt ESS, group of companies, market value, share, ~~share purchase scheme~~, share scheme taxing date, shareholder-employee 20

CE 7B Meaning of share scheme taxing date

Meaning

- (1) **Share scheme taxing date** means, in relation to shares or related rights under an employee share scheme, the earlier of the following dates: 25
 - (a) the first date when the shares are held by or for the benefit of an employee share scheme beneficiary (**beneficial ownership**) and after which, under the provisions of the scheme,—
 - (i) there is no ~~real~~ material risk that beneficial ownership may change or that a right or requirement in relation to the transfer or cancellation of the shares may operate; and 30
 - (ii) there is no benefit accruing to the employee share scheme beneficiary in relation to a fall in value of the shares; and
 - (iii) there is no ~~real~~ material risk that there will be a change in the terms of the shares affecting the value of the shares: 35
 - (b) the date when the shares or related rights of an employee share scheme beneficiary are cancelled or are transferred to a person who is not associated with a beneficiary described in **section CE 7(a)(i) or (ii)**.

Exclusions

- (2) For the purposes of applying **subsection (1)**, the following requirements and rights are ignored:
- (a) a right or requirement in relation to transfer by the employee share scheme beneficiary for market value consideration at the time of the transfer: 5
 - (b) a right or requirement that is not contemplated by the employee share scheme’s provisions:
 - (c) a right or requirement that, at the time it came into existence, had no real material risk of operating or no real material commercial significance: 10
 - (d) a right or requirement in relation to the transfer of shares, if the right or requirement is 1 that also applies to shares not under the employee share scheme.

Example 1 – Simple vesting period

Acme Limited transfers shares worth \$10,000 to a trustee on trust for an employee, Alice, of Acme Limited. Under the terms of the trust, Alice forfeits, for no consideration, any contingent interest or beneficial ownership in the shares if she leaves the employ of Acme Limited within 3 years of the transfer of the shares to the trustee. Alice stays for 3 years, and, under the terms of the trust, the shares are transferred absolutely to her on her 3rd anniversary of employment. It is a material risk, for the 3 years after the transfer to the trustee, that the terms of the trust will operate to forfeit any contingent interest or beneficial ownership in the shares. Consequently, the share scheme taxing date for Alice’s shares is her 3rd anniversary of employment. 15 20

Example 2 – Vesting subject to misconduct

Acme Limited transfers shares worth \$10,000 to a trustee on trust for an employee, Bob, of Acme Limited. Under the terms of the trust, Bob forfeits, for no consideration, any contingent interest or beneficial ownership in the shares if he leaves the employ of Acme Limited because he is dismissed for serious misconduct within 3 years of the transfer of the shares to the trustee. It is not a material risk that the terms of the trust will operate to forfeit any contingent interest or beneficial ownership in the shares. The risk that Bob will be dismissed for serious misconduct within 3 years is not material. Consequently, the share scheme taxing date for Bob’s shares is the date when the shares are transferred to the trustee. 25 30

Defined in this Act: associated person, consideration, employee share scheme, employee share scheme beneficiary, market value, share 35

CE 7C Meaning of employee share scheme beneficiary

Employee share scheme beneficiary means, for an employee share scheme,—

- (a) a person (**person A**) who is described in **section CE 7(a)**:
- (b) a person who is an associate of person A. 40

Defined in this Act: associated person, employee share scheme

CE 7D Meaning of replacement employee share scheme

Replacement employee share scheme means, for an employee share scheme (the **old scheme**), another employee share scheme to which members of the old scheme are transferred.

Defined in this Act: employee share scheme

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14B Section CH 11 amended (Te Awa Tupua and Te Pou Tupua)

(1) In section CH 11(2), replace “derives income in the income year” with “is treated as deriving income for the income year of an amount”.

(2) After section CH 11(2), insert:

Defined in this Act: amount, income, income year

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15 Section CQ 5 amended (When FIF income arises)

(1) In section CQ 5(1)(c)(viii), replace “(Exemption for employee share purchase scheme of grey list company)” with “(Exemptions for employee share schemes)”.

(2) In section CQ 5, in the list of defined terms, delete “non-attributing active FIF”.

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16 New section CR 3B inserted (Lloyd’s of London: income from life insurance premiums)

(1) After section CR 3, insert:

CR 3B Lloyd’s of London: income from life insurance premiums

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What this section applies to

(1) This section applies to a premium a portion of which is treated as having a source in New Zealand under **section YD 8B** (Apportionment of life insurance premiums derived by Lloyd’s of London) if—

(a) the policyholder pays the premium for a life insurance policy to Lloyd’s of London or an agent of Lloyd’s of London; and

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(b) the life insurance policy is described in **subsection (3)**; and

(c) the life insurance policy is offered or was offered or entered into within New Zealand.

Amount of income

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(2) Ten percent of the gross premium derived by Lloyd’s of London is income of Lloyd’s of London.

Types of life insurance policies

(3) The life insurance policy referred to in **subsection (1)** is a life insurance policy that—

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(a) is made available to the general public; and

<p>(b) is not a profit participation policy or a savings product policy or both; and</p> <p>(c) does not provide for a benefit that is an annuity.</p> <p>Defined in this Act: income, life insurance policy, Lloyd’s of London, offered or was offered or entered into, pay, premium, profit participation policy, savings product policy, source in New Zealand</p>	5
(2) Subsection (1) applies in relation to a life insurance premium that is derived on or after 1 April 2017 by Lloyd’s of London.	
17 Section CT 5 amended (Petroleum mining operations outside New Zealand)	
(1) In section CT 5, replace “petroleum mining operations that are” with “petroleum mining operations that are, or decommissioning that is”.	10
(2) In section CT 5, in the list of defined terms, insert “decommissioning”.	
(3) Subsection (1) applies for the 2018–19 and later income years.	
18 New section CT 5B inserted (Resuming commercial production)	
(1) After section CT 5, insert:	15
CT 5B Resuming commercial production	
<i>When this section applies</i>	
(1) This section applies when a petroleum miner or a farm-in party undertakes commercial production in a permit area when a petroleum miner, or a farm-in party, has received a deduction under section EJ 13 (Permanently ceasing petroleum mining operations) for permanently ceasing petroleum mining operations in the permit area.	20
<i>Income</i>	
(2) An amount described in subsection (3) is treated as income of the petroleum miner who, at any time after the petroleum mining operations have ceased under section EJ 13 ,—	25
(a) undertakes commercial production (the resumed commercial production) in the permit area:	
(b) arranges for a farm-in party to undertake the resumed commercial production in the permit area.	30
<i>Amount treated as income</i>	
(3) The amount referred to in subsection (2) that is treated as income is an amount that is equal to the amount of the deduction allowed under section EJ 13 to the extent to which it relates to a petroleum mining asset that is used or is to be used in the resumed commercial production.	35

<i>Allocation of income</i>		
(4)	The amount is allocated to the income year in which the resumed commercial production in the permit area begins. Defined in this Act: amount, commercial production, deduction, farm-in party, farm-out arrangement, income, income year, permit area, petroleum development expenditure, petroleum miner, petroleum mining asset, petroleum mining operations, petroleum permit	5
(2)	Subsection (1) applies for the 2018–19 and later income years.	
19	Section CT 6 amended (Meaning of petroleum miner)	
(1)	In section CT 6(1), replace “petroleum mining operations” with “petroleum mining operations or decommissioning”.	10
(2)	In section CT 6(2), replace “petroleum mining operations” with “petroleum mining operations or decommissioning”.	
(3)	In section CT 6, in the list of defined terms, insert “decommissioning”.	
(4)	Subsections (1) and (2) apply for the 2018–19 and later income years.	
20	Section CT 6B amended (Meaning of petroleum mining operations)	15
(1)	Repeal section CT 6B(2)(e).	
(2)	In section CT 6B, in the list of defined terms, delete “removal or restoration operations”.	
(3)	Subsection (1) applies for the 2018–19 and later income years.	
21	Section CT 7 amended (Meaning of petroleum mining asset)	20
(1)	In section CT 7(3)(d), replace “removal or restoration operations” with “decommissioning”.	
(2)	In section CT 7, in the list of defined terms—	
	(a) insert “decommissioning”:	
	(b) delete “removal or restoration operations”.	25
(3)	Subsection (1) applies for the 2018–19 and later income years.	
22	Section CV 17 amended (Non-exempt charities: taxation of tax-exempt accumulation) In section CV 17, replace “charities: taxation” with “charities: treatment”.	
23	New section CV 20 inserted (Employee share schemes)	30
	After section CV 19, insert:	
CV 20	Employee share schemes An amount of income that has a person has under section DV 27(9) (Employee share schemes) is income of the person. Defined in this Act: amount, employee share scheme, income	35

- 23B Section CW 10 amended (Dividend within New Zealand wholly-owned group)**
- In section CW 10, in the list of defined terms, delete “amount”, “deduction”, “income year”, “net income”, and “tax avoidance arrangement”.
- 24 Section CW 17CB amended (Payments for certain work-related meals)** 5
- (1) After section CW 17CB(7), insert:
- Meaning of employer’s workplace*
- (7B) In this section, **employer’s workplace** means the workplace of the employer at which the employee normally works.
- (2) In section CW 17CB, in the list of defined terms, insert “employer’s workplace”.
- 25 New sections CW 26B to CW 26G inserted**
- After section CW 26, insert:
- CW 26B ~~Share purchase schemes~~ Exempt ESS**
- An amount derived from a ~~share purchase scheme~~ an exempt ESS is exempt income. 15
- Defined in this Act: amount, exempt ESS, exempt income, ~~share purchase scheme~~
- CW 26C ~~Meaning of share purchase scheme~~ exempt ESS**
- Share purchase scheme* Exempt ESS
- (1) **~~Share purchase scheme~~ Exempt ESS** means— 20
- (a) a scheme that had the Commissioner’s approval under **section DC 12** (Loans to employees under share purchase schemes) before that section’s repeal by the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act **2017**:
- (b) an arrangement of which the Commissioner has been notified under **section 63B(1)** of the Tax Administration Act 1994, and for which the requirements in ~~section 63B(2)~~ of that Act are met, if the arrangement meets the criteria in **subsections (2) to (9)** if— 25
- (i) the arrangement meets the criteria in **subsections (2) to (9)** of this section; and 30
- (ii) the Commissioner has received all forms due under **section 63B(2) and (3)** of the Tax Administration Act 1994.
- Purchase of shares*
- (2) The arrangement must provide that— 35
- (a) the shares are available for no more than their market value at the date of purchase or subscription; and

- (b) the market value of the shares purchased or subscribed for by an employee, or a trustee for an employee, under the arrangement is less than or equal to \$5,000 in a year; and
- (c) the difference between the market value of the shares purchased or subscribed for by an employee or a trustee and the amount that an employee spends on buying shares under the arrangement is less than or equal to \$2,000 in a year.

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Eligibility

- (3) The arrangement must provide that—
 - (a) a full-time permanent employee to whom an offer under the arrangement is made is eligible to participate in the arrangement, on an equal basis with 90% or more of other full-time permanent employees to whom an offer under the arrangement is not subject to foreign security disclosure rules; and 10
 - (b) if it applies to part-time employees, those employees to whom an offer under the arrangement is made are eligible to participate in the arrangement, on an equal basis with 90% or more of other part-time employees to whom an offer under the arrangement is not subject to foreign security disclosure rules; and 15
 - (c) if it applies to seasonal workers, those employees to whom an offer under the arrangement is made are eligible to participate in the arrangement, on an equal basis with 90% or more of other seasonal workers to whom an offer under the arrangement is not subject to foreign security disclosure rules; and 20
 - (d) if it requires that an employee spend a minimum amount on buying shares, it requires no more than \$1,000 to be spent in a year; and 25
 - (e) if it requires that an employee must have a minimum period of employment or service before the employee is eligible to participate, it requires—
 - (i) no more than 3 years full-time work, for full-time employees; and 30
 - (ii) no more than an accumulated period that is equivalent of 3 years full-time work, for other employees.

Loans to employees Payments

- (4) The arrangement must provide that—
 - (a) if it requires that an employee must buy the shares for more than nominal consideration,— 35
 - (i) a loan for the cost of the shares is available to the employee; or
 - (ii) ~~the employee may pay for the shares using regular instalments of a month or less, and that the regular instalments are subject to~~ **paragraph (d)(ii) and subsection (5)**; and 40

(ii)	<u>the employee may pay for or buy the shares in regular instalments of a month or less, and any regular instalments are subject to paragraph (d)(ii); and</u>	
(b)	any loan to an employee to buy shares is free of interest and other charges; and	5
(c)	any loan or regular instalments have a maximum term of 60 months and a minimum term of 36 months; and	
(d)	any loan to an employee to buy shares is repayable by regular instalments of a month or less, but—	
(i)	the loan is repayable early in full or in part at the employee’s discretion; and	10
(ii)	in the case of an employee who is on unpaid or maternity <u>parental</u> leave for more than a month, the regular instalments are suspended while on leave and the term of the loan is extended as appropriate.	15
	<i>Serious hardship</i>	
(5)	The arrangement must provide, in the case of serious hardship that results or may result from an employee’s continued participation in the share purchase scheme <u>exempt ESS</u> , that, with the employee’s agreement,—	
(a)	any regular instalments and any other terms related to payment by the employee may be varied; or	20
(b)	the employee may withdraw from the arrangement, and any shares are bought from the employee for their market value on the day of withdrawal, subject to the repayment of any outstanding loan.	
	<i>Withdrawal</i>	25
(6)	The arrangement must provide that the employee may withdraw from the arrangement on giving 1 month’s notice to the relevant party. Any shares must be bought from the employee for the lesser of their market value on the day of withdrawal and their cost to the employee, subject to the repayment of any outstanding loan.	30
	<i>Period of restriction</i>	
(7)	The arrangement must provide that,—	
(a)	if the employee has not acquired the shares for market value, there is a period of restriction during which the shares must not be disposed of and that period of restriction is no longer than the shorter of—	35
(i)	a period of 3 years starting on the date the employee acquired the shares, or the period of repayment of a loan made to them under the scheme for this purpose, whichever is longer; and	
(ii)	a period starting on the date the employer acquired the shares and ending on the date the employee ends their employment with the	40

	company that employs them, or a company in the same group of companies if the employee is transferred; or	
	(b) if the employee has acquired the shares for market value, there is a period of restriction during which the shares must not be disposed of and that period of restriction is no longer than the shorter of—	5
	(i) the shortest period in paragraph (a)(i) and (ii) ; and	
	(ii) any period of restriction provided by the arrangement, if that period finishes on or after the date on which the employee has no further repayment obligations for a loan made to them under the scheme.	10
	<i>End of period of restriction: general rule</i>	
(8)	When the period of restriction provided by subsection (7) ends, the arrangement must provide that—	
	(a) the shares are transferred to the employee if the employee is still employed by the relevant company and they have not already been transferred; or	15
	(b) if the employee chooses, the shares are purchased for the lesser of—	
	(i) the cost of the shares to the employee;	
	(ii) the market value of the shares on the date the period of restriction ends.	20
	<i>End of period of restriction: certain cases</i>	
(9)	Despite subsection (8) , when a period of restriction ends because the employee’s employment ends through their death, accident, sickness, redundancy, or retirement at normal retiring age, the arrangement must provide that—	
	(a) the shares are transferred to the former employee if they have not already been transferred, or transferred to the legal representative of the employee’s estate, as appropriate; or	25
	(b) if the employee chooses, the shares are purchased for the lesser of—	
	(i) the cost of the shares to the employee;	
	(ii) the market value of the shares on the date the period of restriction ends.	30
	Defined in this Act: amount, arrangement, Commissioner, company, employee, employer, employment, <u>exempt ESS</u> , group of companies, interest, loan, market value, normal retiring age, notice, pay, share, share purchase scheme , trustee, year	
CW 26D	Meaning of employee	35
	For the purposes of section CW 26C , employee—	
	(a) means a person that is employed by a company; but	
	(b) does not include person who,—	

- (i) is a director of the company, unless they are employed by the company:
- (ii) is a corporation sole, a body corporate, or an unincorporated body:
- (iii) with any associated person, holds 10% or more of the issued capital of the company.

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Defined in this Act: associated person, company, director, employment

CW 26E Meaning of normal retiring age

For the purposes of **section CW 26C**, **normal retiring age** means—

- (a) for an employee other than 1 to whom **paragraph (b)** applies, no less than 60 years of age:
- (b) for a female employee who is entitled under a contract of employment entered into before 1 April 1978 with the company that employs her to retire before 60 years of age, no less than 55 years of age:
- (c) for any employee, an age that is earlier than the age referred to in **paragraph (a) or (b)** and that the Commissioner considers reasonable given the nature of the employment or the general terms of employment in the business or occupation of the employee.

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Defined in this Act: business, Commissioner, company, employee, employment, normal retiring age

CW 26F Meaning of share

For the purposes of **section CW 26C**, **share** means, for a company whose shares are made available under a ~~share purchase scheme~~ an exempt ESS, a fully paid ordinary share that ranks equally with, and has the same designation as, an existing ordinary voting share in the company.

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Defined in this Act: company, exempt ESS, share, ~~share purchase scheme~~

CW 26G Meaning of trustee

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For the purposes of **section CW 26C**, **trustee** means a group of persons appointed to administer a ~~share purchase scheme~~ an exempt ESS of a company that employs an employee, and to hold shares under that scheme on trust for the employee during any period of restriction described in **section CW 26(7)**.

Defined in this Act: company, employee, exempt ESS, group of persons, share, ~~share purchase scheme~~, trustee

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25B Section CW 40C amended (Te Pou Tupua)

In section CW 40C,—

- (a) before subsection (1), insert “Exempt income” as a subsection heading:
- (b) before subsection (2), insert “Exclusion” as a subsection heading:
- (c) after subsection (2), insert:

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Defined in this Act: amount, exempt income, income

25C	Section CW 41 amended (Charities: non-business income)	
(1)	<u>In section CW 41(5)(a), replace “trustee or trustees of a trust” with “trustee”.</u>	
(2)	<u>In section CW 41(5)(b), replace “trustee or trustee of a trust” with “trustee”.</u>	
(3)	<u>In section CW 41(5)(c), replace “trustee or trustee of a trust” with “trustee”.</u>	
25D	Section CX 5 amended (Relationship with exempt income)	5
	<u>In section CX 5, in the list of defined terms, delete “expenditure on account of an employee”, “life insurance policy”, and “premium”.</u>	
26	New section CX 55B inserted (Proceeds from disposal of certain shares and financial arrangements)	
(1)	After section CX 55, insert:	10
	CX 55B Proceeds from disposal of certain shares and financial arrangements	
	<i>Disposal of shares</i>	
(1)	An amount that a foreign PIE equivalent derives for an income year from the disposal of a share is excluded income of the foreign PIE equivalent for the income year.	15
	<i>Disposal of financial arrangements</i>	
(2)	An amount that a foreign PIE equivalent derives for an income year from the disposal of a financial arrangement is excluded income of the foreign PIE equivalent for the income year.	
	<i>Exclusion</i>	20
(3)	Subsection (2) does not apply to an amount of interest referred to in schedule 6, table 1B, row 6 (Prescribed rates: PIE investments and retirement scheme contributions).	
	Defined in this Act: amount, excluded income, financial arrangement, foreign PIE equivalent, income year, interest, share	25
(2)	Subsection (1) applies for the 2012–13 and later income years.	
27	New cross-heading and section CX 57B inserted	
	After section CX 57, insert:	
	<i>Foreign investment income</i>	
	CX 57B Amounts derived during periods covered by calculation methods	30
	<i>When this section applies</i>	
(1)	This section applies when a person derives an amount <u>other than FIF income</u> from an attributing interest in a FIF, including a gain from the disposal of the interest, in a period for which they have used a calculation method referred to in section EX 59(2)59(1) (Codes: comparative value method, deemed rate of	35

return method, fair dividend rate method, and cost method) to calculate their FIF income or loss.

Excluded income

- (2) The amount derived is excluded income of the person.

Defined in this Act: amount, attributing interest, calculation method, excluded income, FIF, FIF income, FIF loss

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27B Section CX 60 amended (Intra-group transactions)

- (1) Replace section CX 60(1), other than the heading, with—

(1) This section applies when a company that is part of a consolidated group derives an amount referred to in **section FM 8(3)** (Transactions between group companies: income) from a transaction or arrangement with another company that is part of the same group and the amount would not be income if the group were 1 company.

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(2) In section CX 60(2), replace “The amount” with “To the extent to which the amount is not an amount referred to in **section FM 8(3)(d)**, the amount”.

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(3) **Subsection (1)** applies for the 2019–20 and later income years.

28 Section CZ 1 replaced (Share purchase agreement income before 19 July 1968)

Replace section CZ 1 with:

CZ 1 Grandparented shares under employee share schemes

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When this section applies

(1) This section applies when, for shares under an employee share scheme,—

(a) the shares were granted or acquired under the employee share scheme before the date that is 6 months after the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act **2017** receives the Royal assent, and—

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(i) the shares were granted or acquired for purposes not including the purpose of avoiding the future application of the employee share scheme provisions in that Act (the **new ESS provisions**); and

(ii) the share scheme taxing date for the shares is before 1 April 2022:

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(b) the shares were granted or acquired under the employee share scheme before 12 May 2016.

Grandparenting

(2) The new ESS provisions do not apply for the shares. Instead, the provisions of this Act that would apply ignoring the enactment of the new ESS provisions apply for the shares.

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Defined in this Act: employee share scheme, income, share, share scheme taxing date

28B Section CZ 9 amended (Available capital distribution amount: 1965 and 1985–1992)

In section CZ 9(1)(a), replace “those provisions were repealed” with “that provision was repealed”.

28C Section DB 11 amended (Negative base price adjustment)

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(1) After section DB 11(1B), insert:

Deduction: cessation of LTCs and dissolution of limited partnerships

(1C) A person who has a negative base price adjustment under section EW 31(4) for a financial arrangement is allowed a deduction for an amount of the negative base price adjustment to the extent to which—

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(a) **section EW 47B** (Cessation of LTCs and dissolution of partnerships) applies; and

(b) the amount is equal to or less than the consideration that they are treated as having paid, or that is or will be payable, by them for or under the relevant financial arrangement, under **section EW 47B(2)(a)**.

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(2) **Subsection (1)** applies for income years beginning on or after 1 April 2011.

29 New section DB 23B inserted (Revenue account property: certain intra-group transactions)

(1) After section DB 23, insert:

DB 23B Revenue account property: certain intra-group transactions

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When this section applies

(1) This section applies when—

(a) a company that is part of a consolidated group at a time during an income year derives an amount of income from a transaction or arrangement with another company in the consolidated group at the same time; and

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(b) the transaction or arrangement relates to an excepted financial arrangement that—

(i) is revenue account property; and

(ii) ceases to exist, whether through redemption or cancellation, or on amalgamation or liquidation, or otherwise; and

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(c) the amount is excluded income under section FM 8 (Transactions between group companies: income).

No deduction for expenditure incurred

(2) Despite section DB 23, the company is denied a deduction for expenditure incurred in relation to the excepted financial arrangement as the cost of revenue account property.

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	<i>No deduction for closing value</i>	
(3)	Despite section DB 49, the company is denied a deduction for the value that the excepted financial arrangement had at the end of the previous income year. <i>Link with subpart DA</i>	
(4)	This section overrides the general permission. The other general limitations still apply. Defined in this Act: amalgamation, amount, arrangement, cancellation, company, consolidated group, deduction, excepted financial arrangement, excluded income, general permission, income, income year, liquidation, revenue account property	5
(2)	Subsection (1) applies for the 2016–17 and later income years.	10
30	New section DB 54C inserted (Certain expenditure incurred by foreign PIE equivalents)	
(1)	After section DB 54B, insert:	
	DB 54C Certain expenditure incurred by foreign PIE equivalents	
	<i>When this section applies</i>	15
(1)	This section applies for an income year when a foreign PIE equivalent incurs expenditure or loss in deriving an amount to which section CX 55B (Proceeds from disposal of certain shares and financial arrangements) applies.	
	<i>No deduction</i>	
(2)	The foreign PIE equivalent is denied a deduction for the amount of the expenditure or loss.	20
	<i>Link with subpart DA</i>	
(3)	This section overrides the general permission. Defined in this Act: amount, deduction, foreign PIE equivalent, general permission, income year	
(2)	Subsection (1) applies for the 2012–13 and later income years.	25
31	Sections DC 12 to DC 15 repealed Sections DC 12 to DC 15 are repealed.	
32	Section DN 6 amended (When FIF loss arises) In section DN 6(1)(c)(viii), replace “(Exemption for employee share purchase scheme of grey list company)” with “(Exemptions for employee share schemes)”.	30
32B	<u>New section DN 9 inserted (Treatment of certain costs incurred in acquiring FIF interests)</u> <u>After section DN 8, insert:</u>	

DN 9 Treatment of certain costs incurred in acquiring FIF interests

No deduction

- (1) A person is denied a deduction for an amount of expenditure that they incur in acquiring a FIF interest from which income under **section CX 57B** (Amounts derived during periods covered by calculation methods) is derived.

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Link with subpart DA

- (2) This section overrides the general permission.

Defined in this Act: amount, deduction, FIF interest, general permission, income

32C Section DT 5 amended (Petroleum development expenditure)

- (1) In section DT 5(2)(b), replace “method).” with “method); or”.

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- (2) After section DT 5(2)(b), insert:

(c) **section EJ 13** (Permanently ceasing petroleum mining operations).

- (3) **Subsection (1)** applies for the 2018–19 and later income years.

33 Section DT 7 amended (Exploratory well expenditure)

- (1) Replace section DT 7(2), other than the heading, with:

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- (2) An amount equal to the amount that is treated as income is treated as petroleum development expenditure—

(a) incurred by the petroleum miner in the income year in which commercial production from the well starts; and

(b) allocated as provided by section DT 5(2).

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- (2) **Subsection (1)** applies for the 2018–19 and later income years.

34 New section DT 7B inserted (Resuming commercial production: petroleum development expenditure)

- (1) After section DT 7, insert:

DT 7B Resuming commercial production: petroleum development expenditure

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When this section applies

- (1) This section applies when a petroleum miner has had an amount of petroleum development expenditure treated as income under **section CT 5B** (Resuming commercial production).

Amount of income treated as petroleum development expenditure

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- (2) An amount equal to the amount that is treated as income under **section CT 5B** is treated as petroleum development expenditure—

(a) incurred by the petroleum miner in the income year referred to in **section CT 5B**; and

	(b) allocated as provided by section DT 5(2).	
	Defined in this Act: amount, deduction, income, income year, petroleum development expenditure, petroleum miner	
	(2) Subsection (1) applies for the 2018–19 and later income years.	
35	Section DT 15 amended (Persons associated with petroleum miner)	5
(1)	In section DT 15(1)(b)(i), replace “petroleum mining operations” with “petroleum mining operations or decommissioning”.	
(2)	In section DT 15(1)(b)(iii), replace “petroleum mining operations” with “petroleum mining operations or decommissioning”.	
(3)	In section DT 15(2), replace “petroleum mining operations” with “petroleum mining operations or decommissioning”.	10
(4)	In section DT 15(3), replace “petroleum mining operations” with “petroleum mining operations or decommissioning”.	
(5)	In section DT 15, in the list of defined terms, insert “decommissioning”.	
(6)	Subsections (1) to (4) apply for the 2018–19 and later income years.	15
36	Section DT 16 amended (Removal or restoration operations)	
(1)	In the section heading of section DT 16, replace “ Removal or restoration operations ” with “ Decommissioning ”.	
(2)	In section DT 16(1), replace “removal or restoration operations” with “decommissioning”.	20
(3)	In section DT 16, in the list of defined terms,—	
	(a) insert “decommissioning”;	
	(b) delete “removal or restoration operations”.	
(4)	Subsections (1) and (2) apply for the 2018–19 and later income years.	
37	Section DT 17 amended (Attribution of expenditure)	25
(1)	In section DT 17(3), replace the subsection heading with “ <i>Relationship between subpart and section GB 20</i> ”.	
(2)	In section DT 17(3), delete “and IS 5 (Petroleum miners’ tax losses),”.	
(3)	Subsections (1) and (2) apply for the 2018–19 and later income years.	
38	Section DT 20 amended (Petroleum mining operations outside New Zealand)	30
(1)	In section DT 20, replace “petroleum mining operations that are” with “petroleum mining operations that are or decommissioning that is”.	
(2)	In section DT 20, in the list of defined terms, insert “decommissioning”.	
(3)	Subsection (1) applies for the 2018–19 and later income years.	35

39 Section DU 7 amended (Deduction for certain mining expenditure spread on basis of units of production)

(1) After section DU 7(1), insert:

What this section does not apply to

(1B) This section does not apply to an amount of mining outgoing excess of a loss-attributing qualifying company. 5

(2) **Subsection (1)** applies for the 2008–09, 2009–10, and 2010–11 income years.

40 Section DV 2 amended (Transfer of expenditure to master fund)

In section DV 2(8B), in the subsection heading, replace “*portfolio tax rate entity*” with “*multi-rate PIE*”. 10

41 New cross-heading and section DV 27 inserted

After section DV 26 insert:

Employee share schemes

DV 27 Employee share schemes

When this section applies 15

(1) This section applies when a person is party to an employee share scheme.

No deduction except as provided by this section

(2) Except as provided by this section, the person is denied a deduction for an amount of expenditure or loss for an income year, ~~other than in relation to any loan or interest,~~ incurred in relation to the employee share scheme. 20

Interest, establishment and management

(2B) **Subsection (2)** does not apply to an amount of expenditure or loss to the extent to which the amount relates to—

(a) a loan or interest;

(b) establishing or managing the employee share scheme. 25

Deduction under section CE 2(3)

(3) The person is allowed a deduction for the amount of the deduction they are allowed under **section CE 2(3)** (Benefits under employee share schemes) for the income year.

Deduction for administrative or management services 30

(4) ~~The person is allowed a deduction for an amount of expenditure or loss to the extent to which the amount is for administrative or management services provided in relation to the employee share scheme for the income year.~~

	<i>Employment income</i>	
(5)	The person is allowed a deduction for an amount of expenditure or loss incurred on employment income other than under section CE 1(1)(d) (Amounts derived in connection with employment).	
	<i>Deduction for benefit</i>	5
(6)	If the person is the employing or contracting company for an employee share scheme beneficiary described in section CE 7(a)(i) or (ii) (Meaning of employee share scheme) (the employee), the person has an amount of expenditure or loss calculated using the formula in subsection (7) .	
	<i>Formula</i>	10
(7)	For the purposes of subsection (6) , the amount of the expenditure or loss is the positive amount calculated using the formula— employee amount – previous deductions.	
	<i>Definition of items in formula</i>	
(8)	In the formula,—	15
	(a) employee amount is the amount for the employee calculated under the formula in section CE 2(1) :	
	(b) previous deductions is the total amount of deductions that have been allowed to a party to the employee share scheme or an associate <u>for expenditure or loss incurred— in relation to the shares, related rights, or employee share scheme before the date that is 6 months after the date of Royal assent for the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2017.</u>	20
	(i) <u>in relation to the employee amount; and</u>	
	(ii) <u>before the date that is 6 months after the date of Royal assent for the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2017.</u>	25
	<i>Income</i>	
(9)	A negative amount calculated using the formula in subsection (7) is an amount of income of the person.	30
	<i>Link with subpart DA</i>	
(10)	Subsection (3) supplements the general permission. Subsection (3) overrides the employment limitation.	
	Defined in this Act: amount, associated person, company, deduction, employee share scheme, employee share scheme beneficiary, employment income, employment limitation, general permission, income, income year, interest, loan, share	35

42 New section DV 28 inserted (~~Share purchase schemes~~ Exempt employee share schemes)

- (1) Before the heading to subpart DW, insert:

DV 28	<u>Share purchase schemes</u> <u>Exempt employee share schemes</u>	
	<i>When this section applies</i>	
(1)	This section applies when a person is party to a share purchase scheme <u>an exempt ESS</u> .	
	<i>No deduction</i>	5
(2)	The person is denied a deduction for expenditure or loss in relation to the share purchase scheme <u>exempt ESS</u> , except to the extent to which the expenditure or loss <u>relates to establishing or managing the exempt ESS</u> is for administrative or management services provided in relation to the employee share scheme.	10
	Defined in this Act: exempt ESS, deduction, share purchase scheme	10
(2)	Subsection (1) applies—	
(a)	<u>on and after the date on which the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2017 receives the Royal assent, unless paragraph (b) applies:</u>	
(b)	<u>on and after 6 April 2017, if shares under the exempt ESS were acquired after that date in other than the ordinary course of the exempt ESS.</u>	15
43	New section DW 3B inserted (Lloyd’s of London: deductions for life insurance business)	
(1)	After section DW 3, insert:	
DW 3B	Lloyd’s of London: deductions for life insurance business	20
	<i>No deductions</i>	
(1)	Lloyd’s of London is denied a deduction for expenditure incurred in deriving income under section CR 3B (Lloyd’s of London: income from life insurance premiums).	
	<i>Link with subpart DA</i>	25
(2)	This section overrides the general permission.	
	Defined in this Act: deduction, general permission, income, Lloyd’s of London, premium	
(2)	Subsection (1) applies in relation to a life insurance premium that is derived on or after 1 April 2017 by Lloyd’s of London.	
44	Section EA 2 amended (Other revenue account property)	30
(1)	Replace section EA 2(1)(e) with:	
(e)	property under a specified lease or a lease to which section EJ 10 (Personal property lease payments) applies:	
(2)	In section EA 2(1)(f), replace “sections EJ 12 to EJ 20” with “sections DT 1, DT 5, and EJ 12 to EJ 20”.	35

45 New section ED 2B inserted (Transfers to shareholders by ASX-listed Australian company of shares in subsidiary)

(1) After section ED 2, insert:

ED 2B Transfers to shareholders by ASX-listed Australian company of shares in subsidiary

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When this section applies

(1) This section applies when—

(a) a company (the **splitting company**) is an ASX-listed Australian company under **subsection (7)**; and(b) the splitting company transfers the shares in a company (the **subsidiary**) owned by the splitting company to the shareholders of the splitting company; and 10(c) ~~after the transfer of shares (the **share transfer**), each shareholder has a proportion of the shares in the subsidiary equal to the proportion of the shareholder's shares in the splitting company immediately before the share transfer; and~~ 15(c) for each shareholder (the **participating shareholder**) who holds shares in the subsidiary immediately after the transfer of shares (the **share transfer**), any difference between the participating shareholder's proportion of the total shares in the subsidiary held immediately after the share transfer and the participating shareholder's proportion of the total shares in the splitting company held by participating shareholders immediately before the share transfer, is negligible or may be ignored under **subsection (1B)**; and 20(d) the share transfer is not a ~~dividend payment~~ of assessable income or exempt income under the Income Tax Assessment Act 1936 (Aust). 25(1B) For the purpose of **subsection (1)(c)**, a difference between a shareholder's proportion of the total shares in the subsidiary and the shareholder's proportion of the total shares in the splitting company held by participating shareholders may be ignored if the difference arises from the transfer or non-transfer of ownership interests under the share transfer, where— 30(a) the ownership interests have a market value that is a negligible proportion of the total market value of ownership interests in the subsidiary; and(b) each transfer or non-transfer is intended to facilitate the share transfer or is the direct result of impossibility or impracticability for a shareholder caused by the requirements of laws relating to securities. 35

<i>Cost of shares in splitting company after transfer</i>	
(2)	The cost for a shareholder of the shares in the splitting company that are held by the shareholder after the share transfer is the amount calculated using the formula— cost before transfer × value after transfer ÷ (value acquired shares + value after transfer). 5
<i>Cost of shares in new company</i>	
(3)	The cost for a shareholder of the shares acquired in the share transfer is the amount calculated using the formula— cost before transfer × value acquired shares ÷ (value acquired shares + value after transfer). 10
<i>Definition of items in formulas</i>	
(4)	In the formulas in subsections (2) and (3) ,—
(a)	cost before transfer is the cost for the shareholder, immediately before the share transfer, of the shares in the splitting company held by the shareholder immediately after the share transfer: 15
(b)	value after transfer is the market value of the shares in the splitting company held by the shareholder immediately after the share transfer:
(c)	value acquired shares is the market value of the shares in the subsidiary held by the shareholder immediately after the share transfer. 20
<i>Available subscribed capital amounts</i>	
(5)	Immediately after the share transfer, the available subscribed capital,—
(a)	for the shares in the splitting company held immediately after the share transfer, equals the amount, immediately before the share transfer, of the available subscribed capital for the shares; and 25
(b)	for the shares in the subsidiary, is zero.
(5)	<u>Immediately after the share transfer, the available subscribed capital,—</u>
(a)	<u>for each share held in the subsidiary, is—</u>
(i)	<u>the amount given by section CD 43 (Available subscribed capital (ASC) amount) for the share; or 30</u>
(ii)	<u>zero, if it is impractical to recognise an amount of available subscribed capital for the shares held in the subsidiary:</u>
(b)	<u>for the shares held in the splitting company, equals the amount of the available subscribed capital for the shares in the splitting company held immediately before the share transfer, reduced by the total amount given by paragraph (a) for the shares held in the subsidiary immediately after the share transfer. 35</u>

	<i>Not dividend</i>	
(6)	The transfer of the shares in the subsidiary to the shareholders in the splitting company is not a dividend.	
	<i>Meaning of ASX-listed Australian company</i>	
(7)	ASX-listed Australian company means a company that—	5
	(a) is resident in Australia; and	
	(b) is treated as resident in no tax jurisdiction other than Australia under each agreement that—	
	(i) is between Australia and another tax jurisdiction; and	
	(ii) would be a double tax agreement if negotiated between New Zealand and the other tax jurisdiction; and	10
	(c) has shares included in an index that is an approved index under the ASX Operating Rules; and	
	(d) is not an entity described in schedule 25, part B (Foreign investment funds); and	15
	(e) is required under the Income Tax Assessment Act 1997 (Aust) and Income Tax Assessment Act 1936 (Aust) to maintain a franking account.	
	Defined in this Act: amount, ASX-listed Australian company, available subscribed capital, company, dividend, double tax agreement, market value, resident in Australia, share, shareholder	
(2)	Replace section ED 2B(7)(c) with:	20
	(c) is included on the official list of ASX Limited, a market licensee under Chapter 7 of the Corporations Act 2001 (Aust); and	
(3)	Subsection (1) applies for the 2016–17 and later income years.	
(4)	Subsection (2) applies for the 2017–18 and later income years.	
46	Section EE 7 amended (What is not depreciable property?)	25
	In section EE 7(j), delete “, except for an asset to which section DU 6(4) (Depreciation) applies”.	
47	Section EE 34 amended (Annual rate for patent granted in 2005–06 or later income year)	
	In section EE 34(7), replace “do not to the patent” with “do not apply to the patent”.	30
47B	Section EE 44 amended (Application of sections EE 48 to EE 51)	
	In section EE 44(2), replace “EE 52” with “EE 51”.	
47C	Section EE 60 amended (Total deductions in section EE 56)	
(1)	In section EE 60(2)(e), replace “section EZ 23BA(3)” with “section EZ 23BA(4)”.	35

(2)	Subsection (1) applies for the 2017–18 and later income years.	
48	Section EJ 12 amended (Petroleum development expenditure: default allocation rule)	
(1)	In section EJ 12(3), replace the “DT 16, and IS 5” with “and DT 16”.	
(2)	Subsection (1) applies for the 2018–19 and later income years.	5
48B	Section EJ 12B amended (Petroleum development expenditure: reserve depletion method)	
(1)	In section EJ 12B(9), replace “DT 16, and IS 5” with “and DT 16”.	
(2)	Subsection (1) applies for the 2018–19 and later income years.	
49	Section EJ 13 replaced (Relinquishing petroleum mining permit)	10
(1)	Replace section EJ 13 with:	
	EJ 13 Permanently ceasing petroleum mining operations	
	<i>When this section applies</i>	
(1)	This section applies when a petroleum miner and each farm-in party to a farm-out arrangement, if any, to which the petroleum miner is a party, permanently ceases petroleum mining operations—	15
	(a) in a permit area for which the petroleum miner holds a petroleum permit; and	
	(b) for which petroleum development expenditure has been incurred.	
	<i>Amount of deduction for petroleum miner</i>	20
(2)	The amount of the deduction that the petroleum miner is allowed is the difference between—	
	(a) the amount of the deduction allowed for the petroleum miner under section DT 5 (Petroleum development expenditure) and attributable to—	
	(i) the permit; or	25
	(ii) an asset of the kind described in section CT 7(1)(b) or (c) (Meaning of petroleum mining asset) held solely in connection with the permit; and	
	(b) any part of the deduction for the petroleum miner allocated to, or treated as allocated to, earlier income years under section EJ 12(2) or EJ 12B(3).	30
	<i>Amount of deduction for farm-in party</i>	
(3)	The amount of the deduction that the farm-in party is allowed is the difference between—	
	(a) the amount of the deduction allowed for the farm-in party under section DT 14 (Farm-out arrangements) for petroleum development expenditure, and attributable to—	35

<ul style="list-style-type: none"> (i) the permit; or (ii) an asset of the kind described in section CT 7(1)(b) or (c) held solely in connection with the permit; and <p>(b) any part of the deduction for the farm-in party allocated to, or treated as allocated to, earlier income years under section EJ 12(2) or EJ 12B(3).</p> <p><i>Timing of deduction</i></p> <p>(4) The For the purposes of section DT 5(2)(c) (Petroleum development expenditure), the deduction is allocated to the income year in which petroleum mining operations permanently cease.</p> <p>Defined in this Act: amount, deduction, farm-in party, farm-out arrangement, income year, permit area, petroleum development expenditure, petroleum miner, petroleum mining operations, petroleum permit</p>	<p>5</p> <p>10</p> <p>10</p>
<p>(2) Subsection (1) applies for the 2018–19 and later income years.</p>	
<p>50 Section EJ 14 repealed (Spreading deduction backwards)</p>	
<p>(1) Repeal section EJ 14.</p>	
<p>(2) Subsection (1) applies for the 2018–19 and later income years.</p>	
<p>51 Section EJ 18 amended (Petroleum mining operations outside New Zealand)</p>	
<p>(1) In section EJ 18, replace “petroleum mining operations that are” with “petroleum mining operations that are, or decommissioning that is”.</p>	
<p>(1) <u>In section EJ 18, replace the words before paragraph (a) with “Sections EJ 12 to EJ 17 and EJ 20 apply with any necessary modifications to a petroleum miner undertaking petroleum mining operations that are, or decommissioning that is,—”.</u></p>	
<p>(1B) <u>In section EJ 18(b), replace “EJ 17, EJ 19,” with “EJ 17”.</u></p>	
<p>(2) In section EJ 18, in the list of defined terms, insert “decommissioning”.</p>	
<p>(3) Subsection (1) applies for the 2018–19 and later income years.</p>	
<p>(3) Subsections (1) and (1B) apply for the 2018–19 and later income years.</p>	
<p>52 Section EJ 20 amended (Meaning of petroleum mining development)</p>	
<p>(1) In section EJ 20(2)(d), replace “removal or restoration operations” with “decommissioning”.</p>	
<p>(2) In section EJ 20, in the list of defined terms,—</p> <ul style="list-style-type: none"> (a) insert “decommissioning”; (b) delete “removal or restoration operations”. 	
<p>(3) Subsection (1) applies for the 2018–19 and later income years.</p>	

- 53 Section EJ 22 amended (Deductions for market development: product of research, development)**
- (1) In section EJ 22(1), delete “under section DB 34 (Research or development)”.
 - (2) **Subsection (1)** applies for the 2008–09 and later income years.
- 54 Section EW 13 amended (When use of spreading method not required)** 5
- In section EW 13(2), replace “Accident Insurance Act 1988, any” with “Accident Insurance Act 1998, any”.
- 55 Section EW 15H amended (Mandatory use of some determinations)**
- (1) In section EW 15H(1)(e), replace “paragraphs (a) to (d)” with “paragraphs (a) to (c)” in each place where it appears. 10
 - (2) In section EW 15H(2), replace “subsection (1)(a), (c), and (d)” with “subsection (1)(a) and (c)”.
 - (3) **Subsections (1) and (2)** apply for a financial arrangement entered into by a person—
 - (a) in the 2014–15 income year and later income years, unless **paragraph (b)** applies: 15
 - (b) in an income year (the **first income year**) and later income years, if the person files a return of income for the first income year on the basis that this section applies to a financial arrangement entered into in the first income year, and the first income year is the 2011–12, 2012–13, 2013–14, 20 or 2014–15 income year, and the person uses IFRSs to prepare financial statements or to report for financial arrangements for the first income year.
- 55B Section EW 29 amended (When calculation of base price adjustment required)** 25
- (1) After section EW 29(13), insert:
Cessation of LTCs and dissolution of partnerships
 - (14) A person that is party to a financial arrangement in their capacity as owner or partner of a look-through company or a partnership must calculate a base price adjustment as at the date of disposal of the financial arrangement under section HB 4(3) or (6) or HG 4 (which relate to cessation of LTCs and dissolution of partnerships) if they are also a party in a capacity other than as owner or partner (**private capacity**). They calculate the base price adjustment under this subsection in their private capacity. 30
 - (2) In section EW 29, in the list of defined terms, insert “look-through company”, “partner”, and “partnership”. 35
 - (3) **Subsection (1)** applies for income years beginning on or after 1 April 2011.

56 Section EW 31 amended (Base price adjustment formula)

(1) Replace section EW 31(7)(b) with:

(b) non-integral fees, if the relevant method is—

- (i) the IFRS financial reporting method in section EW 15D:
- (ii) the modified fair value method in section EW 15G.

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(2) In section EW 31, in the list of defined terms, insert “fair value method”.

56B Section EW 39 amended (Consideration affected by unfavourable factors)

(1) Repeal section EW 39(4).

(2) In section EW 39, in the list of defined terms, delete “self-remission”.

(3) **Subsection (1)** applies for income years beginning on or after 1 April 2011. 10**56C New heading and section EW 47B inserted**

(1) After section EW 47, insert:

*Consideration for cessation of LTCs and dissolution of partnerships***EW 47B Cessation of LTCs and dissolution of partnerships***When this section applies*

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(1) This section applies when—

- (a) a person is required to calculate a base price adjustment under **section EW 29(14)** in their private capacity; and
- (b) the person has an accrued entitlement.

Consideration limited to owner’s interests

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(2) The person is treated as—

- (a) having paid all the consideration paid, or that is or will be payable, by them for or under the relevant financial arrangement, multiplied by the proportion of their owner’s interests or partner’s interests in the financial arrangement in their non-private capacity; and
- (b) having been paid the market value, on the date of disposal, of the accrued entitlement, multiplied by the proportion of their owner’s interests or partner’s interests in the financial arrangement in their non-private capacity.

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Defined in this Act: dispose, financial arrangement, owner’s interest, partner, partner’s interests

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(2) **Subsection (1)** applies for income years beginning on or after 1 April 2011.**57 Section EX 21 amended (Attributable CFC amount and net attributable CFC income or loss: calculation rules)**

(1A) In section EX 21(14)(a), replace “DT 17 to DT 19, and IS 5” with “and DT 17 to DT 19”.

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- (1) In section EX 21(29), replace “DT 17 to DT 19, and IS 5” with “and DT 17 to DT 19”.
- (2) **Subsection (1)** applies for the 2018–19 and later income years.
- (2) **Subsections (1A) and (1)** apply for the 2018–19 and later income years.

58 Section EX 21B amended (Non-attributing active CFCs) 5

- (1) In section EX 21B(2)(b), replace “EX 21E” with “section EX 21E” in each place where it appears.
- (2) After section EX 21B(4), insert:

Part-period calculations

- (5) **Section EX 21F** sets out the requirements for a non-attributing active CFC when an interest holder holds an income interest for only part of an accounting period. 10
- (3) In section EX 21B, in the list of defined terms, insert “income interest”.

59 New section EX 21F inserted (Part-period calculations)

After section EX 21E, insert: 15

EX 21F Part-period calculations

When this section applies

- (1) This section applies for the purposes of **sections EX 21B**, EX 21C, and EX 21E when an interest holder holds an income interest for only part of an accounting period (the **part-period**). 20

Requirements

- (2) The interest holder may determine that a CFC is a non-attributing active CFC if—
 - (a) the CFC meets the requirements of section EX 21C for the use of applicable accounting standard in the application of section EX 21E; and 25
 - (b) the person chooses to use the applicable accounting standard in EX 21E; and
 - (c) the CFC meets the requirements of section EX 21E, having regard to the accounts for the part-period; and
 - (d) the person, or a company that is part of the person’s group of companies, holds an income interest in the CFC for the part-period. 30

Determination for interest holders

- (3) A determination under **subsection (2)** applies for the interest holder and no other person.

Alternative default method

- (4) If the requirements of **subsection (2)** are not met, the interest holder must use the default test set out in section EX 21D, applying the test to the full accounting period.

Defined in this Act: accounting period, CFC, company, group of companies, income interest, non-attributing active CFC

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59B Section EX 22 amended (Non-attributing Australian CFCs)

- (1) Replace section EX 22(1)(c) with:

(c) the CFC—

(i) is not a unit trust; or

(ii) is a unit trust that is subject under Australian law to income tax on its income in the same way as a company; or

(iii) is a unit trust whose units are owned by an entity resident in Australia as described in paragraph (a)(iii), and either the unit holder meets the requirements of paragraph (a)(ii) or the unit trust is treated as part of the head company of a consolidated group subject under Australian law to tax on its income.

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- (2) **Subsection (1)** applies for income years beginning on or after 1 July 2014.

60 Section EX 38 amended (Exemption for employee share purchase scheme of grey list company)

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- (1) In the heading to section EX 38, replace “**Exemption for employee share purchase scheme of grey list company**” with “**Exemptions for employee share schemes**”.

- (2) In section EX 38, insert after the section title, “*Grey list companies*” as a subsection heading.

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- (3) In section EX 38(f) replace “share purchase agreement” with “employee share scheme”.

- (4) In section EX 38(g) replace “share purchase agreement” with “employee share scheme”.

- (5) In section EX 38, insert as a new subsection:

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Share scheme taxing date

- (2) A person’s rights in a FIF in an income year are not an attributing interest to the extent to which—

(a) the rights are a direct income interest; and

(b) section EX 30(1)(c) does not apply; and

(c) the person acquires the shares or related interests under an employee share scheme; and

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- (d) at the beginning of the year, the share scheme taxing date for the shares or related interests has not passed.
- (6) In section EX 38, in the list of defined terms,—
- (a) insert “employee share scheme” and “share scheme taxing date”:
 - (b) delete “share purchase agreement”. 5
- 60B Section EX 46 amended (Limits on choice of calculation methods)**
- (1) In section EX 46(10)(a), replace “fixed-rate share” with “fixed-rate share that meets the requirements of the definition of **fixed-rate share**, paragraph (f)(i) or (f)(iii), or both”.
 - (2) In section EX 46, in the list of defined terms, insert “fixed-rate share”. 10
- 61 Section EX 59 amended (Codes: comparative value method, deemed rate of return method, fair dividend rate method, and cost method)**
- (1) Replace section EX 59(2), other than the heading, with:
 - (2) ~~The person is treated as not having any income from the interest for the period other than FIF income and any~~An amount, other than FIF income, that is derived in the period from the interest, ~~including a gain from the disposal of the interest,~~ is excluded income under **section CX 57B** (Amounts derived during periods covered by calculation methods). 15
 - (2) In section EX 59, in the list of defined terms,—
 - (a) insert “excluded income”: 20
 - (b) delete “dividend”.
- 61B Section EX 73 amended (Election that CFC not non-attributing active CFC or FIF not non-attributing active FIF)**
- In section EX 73, in the list of defined terms, delete “non-attributing active FIF”. 25
- 62 Section EY 10 amended (Meaning of life insurer)**
- (1) After section EY 10(2), insert:
Exclusion: Lloyd’s of London
 - (2B) Except for the reference to life insurer in section EY 8 where Lloyd’s of London is treated as a life insurer, Lloyd’s of London is treated as not being a life insurer in relation to its business of providing life insurance, the premium from which is income of Lloyd’s of London under **section CR 3B** (Lloyd’s of London: income from life insurance premiums). 30
 - (2) In section EY 10, in the list of defined terms, insert “Lloyd’s of London”, “life insurance policy”, and “premium”. 35
 - (3) **Subsection (1)** applies in relation to a life insurance premium that is derived on or after 1 April 2017 by Lloyd’s of London.

- 62B Section EZ 23BA amended (Aircraft acquired before 2017–18 income year: adjusted tax value, base value, reduced; total deductions increased)**
- (1) Replace section EZ 23BA(4), other than the heading, with:
- (4) For the purposes of section EE 60, an amount equal to the difference between the reduction required by subsection (2) and the reduction required by subsection (3) is included as a decrease in the item total deductions for the aircraft engine or aircraft. 5
- (2) **Subsection (1)** applies for the 2017–18 and later income years.
- 63 Section FC 2 amended (Transfer at market value)**
- In section FC 2(3), after “Sections”, insert “**ED 2B** (Transfers to shareholders by ASX-listed Australian company of shares in subsidiary) and”. 10
- 63B Section FC 10 amended (Transfers from person to Official Assignee under Insolvency Act 2006)**
- After section FC 10(6), insert:
- Defined in this Act: adjusted tax value, amount, deduction, depreciable property, revenue account property 15
- 63C Section FE 2 amended (When this subpart applies)**
- In section FE 2(1B)(a), replace “sections FE 2(1)(cc)” with “section FE 2(1)(cc)”.
- 63D Section FE 9 amended (Elections)** 20
- In section FE 9, in the list of defined terms, delete “excess debt entity”.
- 63E Section FG 2 amended (Notional loans)**
- In section FG 2, in the list of defined terms, replace “approved issuer levy” with “approved issuer”.
- 63F Section FM 8 amended (Transactions between group companies: income)** 25
- (1) In section FM 8(3)(c), replace “as part of the consolidated group.” with “as part of the consolidated group; or”, and insert:
- (d) the amount of a dividend derived by a local authority from an entity referred to in section CW 10(3) (Dividend within New Zealand wholly-owned group). 30
- (2) **Subsection (1)** applies for the 2019–20 and later income years. However, this section and **sections 27B and 153(3B)** do not apply—
- (a) to a person who has a binding ruling that is made before 6 April 2017; and
- (b) relating to the consolidation rules and their application to a local authority; and 35

- (c) for the period from the date of the binding ruling to the end of the income year in which the binding ruling expires.

63G Section FM 30 amended (Application of certain provisions to consolidated groups)

In section FM 30, in the list of defined terms, delete “nominated company”. 5

64 Section FM 31 amended (Eligibility rules)

- (1) After section FM 31(1)(e), insert:

(eb) it is not a local authority; and

- (2) In section FM 31, in the list of defined terms, insert “local authority”.

65 Section FM 36 amended (Joining existing consolidated group) 10

In section FM 36(2), replace “section FM 31 and entitled to join the consolidated group, it may choose” with “section FM 31, it may choose”.

66 Section FM 37 amended (Leaving consolidated group)

In section FM 37(c), replace “it is no longer entitled to be in the same consolidated group” with “it is not eligible to continue as part of the same consolidated group”. 15

67 Section FM 38 amended (Notice requirements on forming or joining consolidated group)

In section FM 38(2), replace “entitled” with “eligible”.

68 Section FM 40 amended (Losing eligibility or entitlement to be part of consolidated group) 20

- (1) In section FM 40, in the section heading, delete “or entitlement”.

- (2) In section FM 40(1), replace “the nominated company, when it is no longer entitled to be in the same consolidated group” with “the nominated company, when it is not eligible to continue as part of the same consolidated group”. 25

- (3) In section FM 40(2)(b), replace “entitled to be in the same consolidated group” with “eligible to continue as part of the same consolidated group”.

- (4) In section FM 40(3) replace “eligible or entitled” with “eligible”.

- (5) In section FM 40(4) replace “eligibility or entitlement” with “eligibility” in each place where it appears. 30

- (6) After section FM 40(4), insert:

Treatment of local authorities

- (4B) ~~Despite subsections (1) to (4), a local authority that is part of a consolidated group before the date on which the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2017 receives~~ 35

	the Royal assent but is no longer eligible to continue as part of the consolidated group is treated as leaving the consolidated group on the earlier of—	
	(a) the start of the income year following that date:	
	(b) a date notified under subsection (4).	
(7)	In section FM 40, in the list of defined terms, insert “local authority”.	5
69	Section FN 4 amended (Eligibility rules)	
	In section FN 4(2)(a), replace “are part of” with “are part of or would be part of”.	
70	New cross-heading and section GB 49B inserted	
	After section GB 49, insert:	10
	<i>Arrangements involving employee share schemes</i>	
	GB 49B Employee share schemes	
	<i>When this section applies</i>	
(1)	This section applies when a person enters into an arrangement and the purpose or effect of the arrangement is to defeat the intent and application of the definition of share scheme taxing date in relation to an employee share scheme.	15
	<i>Reconstruction</i>	
(2)	The shares or related rights under the employee share scheme have the share scheme taxing date that the Commissioner considers appropriate to counteract a tax advantage obtained by the person from or under the arrangement.	20
	Defined in this Act: arrangement, Commissioner, employee share scheme, share, share scheme taxing date	
71	Section GB 52 amended (Arrangements involving residential land: companies’ shares)	
	In section GB 52(1)(a), replace “relevant date in sections” with “relevant date in section”.	25
72	Section HA 19 amended (Credit accounts and dividend statements)	
	In section HA 19(3)(a), replace “section 67(1)” with “ section 25G(2) ”.	
73	Section HC 2 amended (Obligations of joint trustees for calculating income and providing returns)	30
	In section HC 2(2)(b), replace “section 42(1)(a)” with “ section 33(1D)(1) ”.	
73B	Section HC 6 amended (Beneficiary income)	
(1)	After section HC 6(1B), insert:	

- (1C) Beneficiary income includes an RWT substitution payment made under section RE 2(7) (Resident passive income) to the extent to which the payment meets the requirements of subsection (1) or is paid on a date referred to in subsection (1B).
- (2) In section HC 6(2)(b), replace “apply.” with “apply; or” and insert: 5
- (c) an amount by which a tax credit of a beneficiary for resident withholding tax is reduced under **section LB 3(6)** (Tax credits for resident withholding tax); or
- (d) an amount of a tax credit of a beneficiary allocated under **section LB 3(5)**. 10
- (3) **Subsections (1) and (2)** apply for the 2008–09 and later income years but do not apply to a person and an income year in relation to a tax position taken by the person—
- (a) in a return of income filed before 1 April 2019 for the 2008–09 or later income years; and 15
- (b) relating to the treatment of tax credits for resident passive income in a way that is not consistent with the amendments made in this Act for the treatment of those tax credits; and
- (c) relying on section HC 6 as it was before the amendments made by **subsections (1) and (2)**. 20
- 74 Section HC 27 amended (Who is a settlor?)**
- (1) Repeal section HC 27(3B).
- (2) In section HC 27, in the list of defined terms, delete “share purchase agreement”.
- 75 Section HC 33 amended (Choosing to satisfy income tax liability of trustee)** 25
- (1) In section HC 33(1), replace “liability of the trustee of the trust as described in subsection (2)” with “liability of the trustee of the trust”.
- (2) **Subsection (1)** applies for the 2008–09 and later income years.
- 76 Section HD 3 amended (Agents’ duties and liabilities)** 30
- (1) After section HD 3(2), insert:
- Assessments, returns, and payments of tax by agents for Lloyd’s of London*
- (2B) An agent described in section **HD 17B(2)** (Lloyd’s of London: agents for life insurance)—
- (a) is not subject to subsection (2) for income derived under **section CR 3B** (Lloyd’s of London: income from life insurance premiums); and 35

- (b) must meet the obligations described in **sections HR 13(3)(a) and (b)** (Lloyd’s of London: life insurance) but only to the extent described in **section HD 17B(3)**.
- (2) **Subsection (1)** applies in relation to a life insurance premium that is derived on or after 1 April 2017 by Lloyd’s of London. 5
- 76B New section HD 13B inserted (AIM companies)**
- After section HD 13, insert:
- HD 13B AIM companies**
- When this section applies*
- (1) This section applies when a company— 10
- (a) uses the AIM provisional tax method; and
- (b) makes a provision that relates to expenditure on employment income for a shareholder-employee of the company; and
- (c) makes a payment of tax for the shareholder-employee.
- Agency* 15
- (2) The company is treated as agent for the shareholder-employee for the purposes of the definition of **residual income tax**.
- Relationship with subject matter*
- (3) Section HD 2 does not apply to the agency, unless the agency does not arise only under this section. 20
- Defined in this Act: company, employment income, pay, shareholder-employee, tax
- 77 Section HD 15 amended (Asset stripping of companies)**
- (1) After section HD 15(8), insert:
- Meaning of company in voting interest or market value interest tests*
- (8B) When applying sections YC 2 to YC 6 (which relate to voting and market value interests) for the purposes of the definitions of **controlling shareholder** and **interested shareholder** in subsection (9), the reference to **company** in sections YC 2 to YC 6 includes a company that is acting in the capacity of trustee. 25
- (2) In section HD 15(9), insert in appropriate alphabetical order:
- company** includes a company that is acting in the capacity of trustee 30
- (3) In section HD 15(9), in the definition of **controlling shareholder**, paragraph (b), delete “(Disregarding certain securities)”.
- (4) In section HD 15, in the list of defined terms, insert “trustee”.
- 78 New section HD 17B inserted (Lloyd’s of London: agents for life insurance)** 35
- (1) After section HD 17, insert:

HD 17B Lloyd’s of London: agents for life insurance

When this section applies

- (1) This section applies when Lloyd’s of London derives income from the payment of a premium under **section CR 3B** (Lloyd’s of London: income from life insurance premiums). 5

Agents paying premium or providing funds

- (2) The person treated as agent for Lloyd’s of London is—
- (a) a person, including a broker or agent, who pays the premium to Lloyd’s of London; or
 - (b) a person described in **subsection (4)(b)**. 10

Liability of agents

- (3) The person liable as agent is only liable to calculate the taxable income, provide the return and pay the income tax in relation to the premium the person pays to Lloyd’s of London and not in relation to all the premium income of Lloyd’s of London for the tax year. 15

Banks or non-bank deposit takers

- (4) If a premium is paid by a registered bank, or a licensed non-bank deposit taker, on behalf of a person to Lloyd’s of London or to some other person, acting on behalf of Lloyd’s of London, not carrying on a business in New Zealand through a fixed establishment in New Zealand,— 20
- (a) the bank or licensed non-bank deposit taker is not an agent of Lloyd’s of London; and
 - (b) the person who provides the bank or licensed non-bank deposit taker with the funds from which the premium is paid is an agent of Lloyd’s of London. 25

Defined in this Act: agent, business, deduction, fixed establishment, general permission, income, income tax, licensed non-bank deposit taker, life insurance policy, Lloyd’s of London, New Zealand, pay, premium, registered bank, return of income, tax year, taxable income

- (2) **Subsection (1)** applies in relation to a life insurance premium that is derived on or after 1 April 2017 by Lloyd’s of London. 30

79 Section HF 1 amended (Maori authorities and the Maori authority rules)

In section HF 1(2)(g), replace “sections 31, 57, 68B,” with “sections **25I**, 31, 57,”.

79B Section HG 4 amended (Disposal upon final dissolution)

- (1) After section HG 4(6), insert: 35

	<i>Market value of debt owed</i>	
(7)	<u>In this section, in relation to a limited partnership, the market value of a partner’s interest in a financial arrangement as debtor must take into account the amount of any adjustment for credit impairment.</u>	
(2)	In section HG 4, in the list of defined terms, insert “financial arrangement”.	5
(3)	Subsection (1) applies for income years beginning on or after 1 April 2011.	
80	Section HM 3 amended (Foreign PIE equivalents)	
(1)	In section HM 3(1)(b)(ii), replace “scheme:” with “scheme; and”.	
(2)	Repeal section HM 3(1)(b)(iii).	
(3)	In section HM 3, in the list of defined terms, delete “trustee” and “unit trust”.	10
81	Section HM 4 amended (Who is an investor?)	
(1)	In section HM 4, after the section title, insert “ <i>Meaning of investor</i> ” as a subsection heading.	
(2)	In section HM 4, insert as subsection (2):	
	<i>Consequences of not providing tax file number</i>	15
(2)	An investor in a multi-rate PIE who is required under section 28B of the Tax Administration Act 1994 to provide a tax file number to the PIE and fails to do so within the time limit set out in that section is treated as an investor whose interest has reached the exit level.	
(3)	In section HM 4, in the list of defined terms, insert “exit level”, “multi-rate PIE”, and “tax file number”.	20
(4)	Subsections (1) and (2) apply for the 2018–19 and later income years.	
82	Section HM 9 amended (Collective schemes)	
	Repeal section HM 9(c).	
83	Section HM 13 amended (Maximum shareholdings in investments)	25
(1)	Replace section HM 13(2) with:	
	<i>Voting and market interests: companies other than unit trusts</i>	
(2)	The investment must not carry voting interests or market value interests of more than 20%. This subsection does not apply to a unit trust. Subsection (5) overrides this subsection.	30
(2)	In section HM 13, in the list of defined terms, insert “market value interest”.	
84	Section HM 30 amended (When foreign PIE equivalent no longer meets requirements)	
	In section HM 30(2), replace “section HM 3(b) to (e)” with “section HM 3(1)(b) to (e)”.	35

84B Section HM 42 amended (Exit calculation option)

- (1) Replace section HM 42(1), other than the heading, with:
- (1) This section applies when a multi-rate PIE chooses for a tax year to calculate its income tax liability for exiting investors and remaining investors. The PIE must notify the Commissioner under section 31B of the Tax Administration Act 1994 of the calculation option and of the applicable attribution period. 5
- (2) In section HM 42, in the list of defined terms, insert “attribution period”.

84C Section HM 43 amended (Quarterly calculation option)

- (1) Replace section HM 43(1), other than the heading, with:
- (1) A multi-rate PIE that does not choose to calculate and pay its income tax liability under the exit calculation or provisional tax calculation options, must calculate its tax liability for each quarter of the tax year using the formula set out in section HM 47. The PIE must notify the Commissioner under section 31B of the Tax Administration Act 1994 of the calculation option and of the applicable attribution period. 10
- (2) In section HM 43, in the list of defined terms, insert “attribution period”. 15

84D Section HM 44 amended (Provisional tax calculation option)

- (1) Replace section HM 44(1), other than the heading, with:
- (1) This section applies when a multi-rate PIE chooses to calculate its income tax liability on an income year basis and pay provisional tax by notifying the Commissioner before the start of the income year or when choosing to become a PIE. The PIE must notify the Commissioner under section 31B of the Tax Administration Act 1994 of the calculation option and of the applicable attribution period. 20
- (2) In section HM 44, in the list of defined terms, insert “attribution period” and “Commissioner”. 25

84E Section HM 48 amended (Adjustments to investor interests or to distributions)

- (1) After section HM 48(4), insert:
- Adjustments for errors* 30
- (5) When a multi-rate PIE, through an error, does not calculate and pay its income tax liability in relation to its investors for a tax year correctly, the PIE may make an adjustment under subsection (1)(c) within 1 month of the discovery of the error.
- Maximum adjustments* 35
- (6) For the purposes of **subsection (5)**,—
- (a) the adjustment may be made in the tax year in which the error is made (year 1) without any limit on the total amount of adjustments for errors:

- (b) the adjustment may be made in the tax year following that in which the error is made (year 2), but the total of all adjustments for errors made in year 2 relating to an error made in year 1 must be no more than the greater of—
- (i) \$2000; or 5
- (ii) 5% of the income tax liability of the PIE for year 1.
- When adjustments treated as made*
- (7) An adjustment that meets the requirements of **subsections (5) and (6)** is treated as made on the due date for the amount referred to in section HM 41(3) and calculated under sections HM 42 to HM 44B. 10
- Notifying Commissioner of adjustments*
- (8) Following the discovery of an error to which **subsection (6)(b)** applies, the PIE must notify the Commissioner of the error at the time of making the adjustment, including in their notification—
- (a) the information in **schedule 6, table 1, rows 1 to 8, 10, 12, 13, 16, 21, and 22** of the Tax Administration Act 1994; and 15
- (b) the adjustment to the item referred to in **schedule 6, table 1, row 9** of that Act.
- (2) In section HM 48, in the list of defined terms, insert “income tax liability”.
- 85 Section HM 62 amended (Exit levels for investors)** 20
- (1) In section HM 62, insert after the section title, “*When tax liability and investor interests equal*” as a subsection heading.
- (2) In section HM 62, insert as new subsections:
- Consequences of not providing tax file number*
- (2) An investor in a multi-rate PIE is treated as reaching the exit level when they fail to provide a tax file number to the PIE by the date set out in **section 28B** of the Tax Administration Act 1994. 25
- Treatment of investors when tax file numbers not provided*
- (3) The account of an investor to whom **subsection (2)** applies is treated as closed on the date referred to in that subsection. The PIE must ~~refund~~pay the amount ~~of that is the balance of~~ the investor’s investment to the investor, and calculate and pay tax for the exiting investor for the exit period using the exit calculation option under section HM 42. 30
- (3) In section HM 62, in the list of defined terms, insert “amount” and “tax file number”. 35

86	Section HM 67 amended (Formation losses carried forward to first quarter)	
(1)	In section HM 67(1), replace “when an entity becomes a multi-rate PIE that” with “when an entity either becomes a multi-rate PIE or is a multi-rate PIE that has calculated and paid tax under the provisional tax calculation option under section HM 44 that”.	5
(2)	In section HM 67(2), replace “the entity becomes a PIE” with “the entity either becomes a PIE or changes its calculation option from the provisional tax calculation option to the exit calculation or quarterly calculation option”.	
(3)	In section HM 67, in the list of defined terms, insert “provisional tax”.	10
87	Section HM 68 amended (When formation losses carried forward are less than 5% of formation investment value)	
(1)	In section HM 68, replace “at the time it becomes a PIE” with “at the time it either becomes a PIE or changes its calculation option from the provisional tax calculation option to the exit calculation or quarterly calculation option”.	15
(2)	In section HM 68, in the list of defined terms, insert “provisional tax”.	
88	Section HM 69 amended (When formation losses carried forward are 5% or more of formation investment value: 3-year spread)	
(1)	In section HM 69(1), replace “from the date the entity becomes a PIE” to “from the date the entity either becomes a PIE or changes its calculation option from the provisional tax calculation option to the exit calculation or quarterly calculation option”.	20
(2)	In section HM 69, in the list of defined terms, insert “provisional tax”.	
89	Section HR 10 amended (What happens when vehicle stops being financial institution special purpose vehicle?)	25
	In section HR 10(1), replace “an financial institution special purpose vehicle” with “a financial institution special purpose vehicle” in each place where it appears.	
90	Section HR 12 replaced (Non-exempt charities: taxation of tax-exempt accumulations)	30
(1)	Replace section HR 12 with:	
	HR 12 Non-exempt charities: treatment of tax-exempt accumulations	
	<i>Who this section applies to</i>	
(1)	This section applies to—	
(a)	a person (person A) who—	35
(i)	is registered on the register of charitable entities under the Charities Act 2005 for a period; and	

- (ii) derives exempt income under section CW 41 or CW 42 (which relate to charities) in the same period; and
- (iii) is deregistered as a charitable entity on the end date:
- (b) a person (**person B**) who derives exempt income under section CW 42 for a period that comes to an end on the end date. 5
- When this section does not apply*
- (2) This section does not apply if—
- (a) for person A, they are re-registered on the register of charitable entities within 1 year of the end date:
- (b) for person B, they meet the requirements of section CW 42(1) within 1 year of the end date. 10
- Treatment of income*
- (3) Person A or person B, as applicable, has an amount of income derived on the day that is 1 year after the end date that is equal to the value of assets that the person held on the end date less the liabilities of the person on that date, but ignoring— 15
- (a) assets that are disposed of or transferred within 1 year of the end date, together with any rights and obligations, to another person—
- (i) for charitable purposes:
- (ii) in accordance with the person’s rules described in **subsection (4)**: 20
- (b) assets received from the Crown—
- (i) to settle a Treaty of Waitangi claim:
- (ii) in accordance with the Maori Fisheries Act 2004:
- (c) assets other than money gifted or left to the person when they met the requirements to derive exempt income under section CW 41 or CW 42. 25
- Person’s rules*
- (4) In **subsection (3)(a)(ii)**, the person’s rules are, as appropriate—
- (a) for person A, the person’s rules set out in the register of charitable entities immediately before the person’s removal from the register: 30
- (b) for person B, the governing instrument that applies immediately before the end date.
- Negative amounts*
- (5) For the purposes of the calculation in **subsection (3)**, if the amount is negative, it is treated as zero. 35
- References to assets and liabilities*
- (6) In this section, references to **assets** and **liabilities**, as applicable,—

<p>(a) mean the assets and liabilities owned, controlled, or held, wholly or in part, immediately before the end date; and</p> <p>(b) include—</p> <p style="padding-left: 20px;">(i) all assets of any kind, whether in the form of real or personal property, money, shares, securities, rights, or interests; and</p> <p style="padding-left: 20px;">(ii) all liabilities, including debts, charges, duties, contracts, or other obligations, whether present, future, actual, contingent, payable, or to be observed or performed in New Zealand or elsewhere.</p> <p><i>Meaning of end date</i></p> <p>(7) In this section, end date means—</p> <p style="padding-left: 20px;">(a) for person A, the day of final decision:</p> <p style="padding-left: 20px;">(b) for person B, the day on which the requirements of section CW 42(1) are no longer met.</p> <p>Defined in this Act: amount, asset, charitable purpose, day of final decision, end date, exempt income, income, liabilities, New Zealand, real property, share, year</p> <p>(2) Subsection (1) does not apply to a person and an income year in relation to a tax position taken by the person—</p> <p style="padding-left: 20px;">(a) in a return of income filed before the date of introduction of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2017; and</p> <p style="padding-left: 20px;">(b) relating to the derivation of exempt income to which subsection (1) applies; and</p> <p style="padding-left: 20px;">(c) relying on section HR 12 as it was before the amendment made by subsection (1).</p> <p>91 New cross-heading and section HR 13 inserted</p> <p>(1) After section HR 12, insert:</p> <p style="text-align: center;"><i>Lloyd’s of London: life insurance</i></p> <p>HR 13 Lloyd’s of London: life insurance</p> <p><i>What this section applies to</i></p> <p>(1) This section applies for the purposes of the obligations imposed by section BB 2 (Main obligations) on underwriters of Lloyd’s of London who derive income (premium income) under section CR 3B (Lloyd’s of London: income from life insurance premiums) in an income year in relation to that income.</p> <p><i>Lloyd’s of London single person</i></p> <p>(2) All underwriters of Lloyd’s of London who derive premium income in the income year are treated as if they were a notional single person, and are jointly and severally liable for meeting the obligations of the notional single person for the income year.</p>	<p>5</p> <p>10</p> <p>15</p> <p>20</p> <p>25</p> <p>30</p> <p>35</p>
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- Taxable income and return of income*
- (3) Subject to **section HD 17B** (Lloyd’s of London: agents for life insurance), the underwriters of Lloyd’s of London must—
- (a) calculate the taxable income that relates to the premium income for the notional single person described in **subsection (2)** for the corresponding tax year; and 5
- (b) for that tax year, provide a joint return of income and satisfy the income tax liability that relates to the premium income for the notional single person. 10
- Underwriters of Lloyd’s of London*
- (4) In this section, underwriters of Lloyd’s of London has the same meaning as Lloyd’s of London. 10
- Defined in this Act: income, income tax liability, income year, Lloyd’s of London, New Zealand, return of income, tax year, taxable income
- (2) **Subsection (1)** applies in relation to a life insurance premium that is derived on or after 1 April 2017 by Lloyd’s of London. 15
- 91B Section HZ 4E amended (Transition out of LTC regime for Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017)**
- Replace section HZ 4E(1), other than the heading, with: 20
- (1) This section applies when an entity that is a look-through company (an LTC) at the end of the 2016–17 or 2017–18 income years ceases to be an LTC (the cessation)—
- (a) on the first day of application for an amendment to LTC-related provisions, in section 288 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017; and 25
- (b) because of an amendment to LTC-related provisions, in section 288 of that Act.
- 92 Section IA 2 amended (Tax losses)**
- (1) Replace section IA 2(4)(g) with: 30
- (g) a person with an unused specified activity net loss: the amount of the unused specified activity net loss to the extent to which the amount has not been subtracted under section IA 4(1)(a) from net income for a tax year.
- (2) In section IA 2, in the list of defined terms,—
- (a) insert “unused specified activity net loss”: 35
- (b) delete “specified activity net loss”.
- (3) **Subsection (1)** applies for the 2018–19 and later income years.

- 93 Section IA 4 amended (Using loss balances carried forward to tax year)**
- (1) In section IA 4(1), after “tax year,” insert “and a person’s unused specified activity net loss,”.
- (2) In section IA 4(1)(b), after “section IA 2(2),” insert “or the amount of unused specified activity net loss referred to in **section IA 2(4)(g)**,”. 5
- (3) After section IA 4(1), insert:
- Unused specified activity net losses subtracted before loss balance*
- (1B) In **subsection (1)(a)**, the unused specified activity net loss is subtracted from net income before the loss balance. 10
- Order for unused specified activity net losses*
- (1C) In **subsection (1)(a)**, the unused specified activity net loss is subtracted in the order in which it arose. The order in which it arose is to be determined by applying **section IA 9(4)** to the unused specified activity net loss as if it were a tax loss component referred to in that section. 15
- (4) In section IA 4, in the list of defined terms, insert “tax loss component” and “unused specified activity net loss”.
- (5) **Subsections (1), (2), and (3)** apply for the 2018–19 and later income years.
- 94 Section IA 4 amended (Using loss balances carried forward to tax year)**
- (1) In **section IA 4(1)**, after “tax year,” delete “and a person’s unused specified activity net loss,”. 20
- (2) In **section IA 4(1)(b)**, after “section IA 2(2),” delete “or the amount of unused specified activity net loss referred to in **section IA 2(4)(g)**,”.
- (3) Repeal **section IA 4(1B) and (1C)**.
- (4) In **section IA 4**, in the list of defined terms, delete “tax loss component” and “unused specified activity net loss”. 25
- (5) **Subsections (1), (2), and (3)** apply for the 2019–20 and later income years.
- 95 Section IA 7 amended (Restrictions relating to ring-fenced tax losses)**
- (1) Repeal section IA 7(8).
- (2) In section IA 7, list of defined terms, delete “petroleum mining company”.
- (3) **Subsection (1)** applies for the 2018–19 and later income years. 30
- 96 Section IA 8 amended (Restrictions relating to schedular income)**
- In section IA 8, in the list of defined terms, delete “non-resident entertainer”.
- 97 Section IA 9 amended (Ordering rules)**
- (1) After section IA 9(3), insert:

	<i>Order for tax loss component from unused specified activity net loss</i>	
(4)	For the purposes of subsection (1), the tax loss component under section IA 2(4)(g) arose when the specified activity net loss, that is referred to in the definition of unused specified activity net loss and that makes up the tax loss component, arose.	5
(2)	In section IA 9, in the list of defined terms, insert with “unused specified activity net loss”.	
(3)	Subsection (1) applies for the 2018–19 and later income years.	
98	Section IC 3 amended (Common ownership: group of companies)	
(1)	Replace section IC 3(3), other than the heading, with:	10
(3)	In subsection (1)(a) and section IC 4(1)(a), a person’s common voting interest in the relevant companies at a particular time is the percentage of their voting interests under sections YC 2, YC 4(1) to (3), YC 5, and YC 6 (which relate to voting interests) in each of the companies at the time.	
(2)	In section IC 3(4), replace “section YC 3 (Market value interests)” with “sections YC 3, YC 4(1) to (3), YC 5, and YC 6 (which relate to market value interests)”.	15
(3)	Subsection (1) applies for the 2008–09 and later income years.	
99	Section IS 5 amended (Petroleum miners’ tax losses)	
(1)	In section IS 5(1)(a), replace “section DT 7 (Exploratory well expenditure)” with “section DT 5 (Petroleum development expenditure)”.	20
(2)	Subsection (1) applies for the 2008–09 and later income years.	
100	Section IS 5 repealed (Petroleum miners’ tax losses)	
(1)	Repeal section IS 5 .	
(2)	Subsection (1) applies for the 2018–19 and later income years.	25
101	Section IZ 1 repealed (Use of specified activity net losses)	
(1)	Repeal section IZ 1.	
(2)	Subsection (1) applies for the 2018–19 and later income years.	
102	Section IZ 2 repealed (Petroleum mining companies: treatment of payments from shareholders)	30
(1)	Repeal section IZ 2.	
(2)	Subsection (1) applies for the 2018–19 and later income years.	
103	Section IZ 3 repealed (Petroleum mining companies: use of loss balances)	
(1)	Repeal section IZ 3.	
(2)	Subsection (1) applies for the 2018–19 and later income years.	35

104 Section LA 6 amended (Remaining refundable credits: PAYE, RWT, and certain other items)

(1) After section LA 6(1)(i), insert:

(ib) **subpart LT** (Tax credits for petroleum miners):

(1B) In section LA 6(2)(d), replace “under Part 10B” with “under **section LB 1B** (Treatment of tax credits of certain companies with shareholders who are employees) or Part 10B”. 5

(2) **Subsection (1)** applies for the 2018–19 and later income years.

105 Section LB 1 amended (Tax credits for PAYE income payments)

(1) In section LB 1(1), replace “an employer monthly schedule” with “employment income information”. 10

(2) In section LB 1(3)(c), replace “the employer monthly schedule” with “their employment income information”.

(3) In section LB 1(4), replace “an employer monthly schedule” with “employment income information”. 15

(4) In section LB 1, in the list of defined terms,—

(a) insert “employment income information”:

(b) delete “employer monthly schedule”.

105B New section LB 1B inserted (Treatment of tax credits of certain companies with shareholders who are employees) 20

After section LB 1, insert:

LB 1B Treatment of tax credits of certain companies with shareholders who are employees

When this section applies

(1) This section applies when— 25

(a) a company to which section RD 3B or RD 3C (which relate to income derived by shareholders who are employees) applies, pays an amount to a person who is both a shareholder and an employee of the company; and

(b) the amount is paid or allocated— 30

(i) under section GB 29 (Attribution rule: calculation); or

(ii) as a shareholder salary, being a payment treated as income other than from a PAYE income payment under section RD 3B(1)(b) or RD 3C(1)(b); and

(c) an amount of tax has been withheld from the payment in relation to which the company has, or will have, a tax credit under **section LB 1**. 35

Use of tax credits

- (2) Despite section LA 6(2)(a) to (c) (Remaining refundable credits: PAYE, RWT, and certain other items), the company may apply to have an amount of the company’s tax credit transferred under section LA 6(2)(d) to the person, treating the amount as tax paid in excess.

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Treatment for company

- (3) The amount of the company’s tax credit under **section LB 1** is reduced by the amount that is transferred to the shareholder and, for the purposes of section OB 32 (ICA refund of income tax), the amount transferred is treated as a refund of income tax.

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Treatment for shareholder

- (4) The amount of the shareholder’s tax credit under **section LB 1** is increased by the amount that is transferred under **subsection (2)**.

Defined in this Act: amount, amount of tax, company, employee, income, income tax, pay, PAYE income payment, shareholder, tax credit

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106 Section LB 3 amended (Tax credits for resident withholding tax)

- (1) In section LB 3(1) replace “are met.” with “are met. The amount of tax includes a payment of RWT for a non-cash dividend.”

- (2) After section LB 3(1), insert:

Tax credit for RWT substitution payments

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- (1B) A trustee of a trust has a tax credit for the amount of an RWT substitution payment under section RE 2(7) (Resident passive income) and must use the credit to satisfy an income tax liability for trustee income under section HC 24 (Trustees’ obligations).

- (3) Replace section LB 3(4) and (5) with:

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Detached tax credits

- (4) A trustee of a trust may detach some or all of a tax credit referred to in subsection (1) for resident passive income—

(a) that is derived by the trustee in an income year; and

(b) that is distributed to a person (**person A**) who is a beneficiary of the trust in—

30

(i) the income year referred to in **paragraph (a)**; or

(ii) the extended period referred to in section HC 6(1)(b) (Beneficiary income); and

(c) in relation to which the trustee makes an RWT substitution payment under section RE 2(7).

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	<i>Allocation of credits to other beneficiaries</i>	
(5)	<u>The trustee may choose to allocate for the income year referred to in subsection (4)(a) some or all of a detached tax credit to another person who is a beneficiary of the trust (person B). The trustee makes the election to allocate the credit in a return of income by applying the credit in satisfying the income tax liability of person B.</u>	5
	<i>Treatment of amounts</i>	
(6)	<u>The amount allocated under subsection (5) is a tax credit of person B for the purposes of subsection (1). However, despite subsection (1), an amount that person A would have under this section in the absence of subsection (5) must be reduced by the amount allocated. Any amount that is not allocated is extinguished.</u>	10
	<i>Evidential requirements</i>	
(7)	<u>Subsection (5) does not apply in the circumstances set out in section HD 4(b) (Treatment of principals).</u>	15
	<i>Meaning of detached tax credit</i>	
(8)	<u>A detached tax credit, for a beneficiary and an income year, means an amount equal to the amount of an RWT substitution payment referred to in subsection (4)(c) that meets the requirements of subsection (4)(a) and (b).</u>	
(4)	<u>In section LB 3, in the list of defined terms, insert “amount”, “Commissioner”, “detached tax credit”, “income tax liability”, “income year”, “notify”, and “trustee income”.</u>	20
(5)	<u>Subsections (2) and (3) apply for the 2008–09 and later income years but do not apply to a person and an income year in relation to a tax position taken by the person—</u>	25
	(a) <u>in a return of income filed before 1 April 2019 for the 2008–09 or later income years; and</u>	
	(b) <u>relating to the treatment of tax credits for resident passive income in a way that is not consistent with the amendments made in this Act for the treatment of those tax credits; and</u>	30
	(c) <u>relying on section LB 3 as it was before the amendments made by subsections (2) and (3).</u>	
107	Section LB 7 amended (Tax credits related to personal service rehabilitation payments: providers)	
	In section LB 7(4)(b)(ii) replace “section 24N” with “section 24G”.	35
108	Section LB 8 amended (Tax credits related to personal service rehabilitation payments: payers)	
	In section LB 8(3)(c)(ii) replace “section 24N” with “ section 24G ”.	

- 109 Section LD 3 amended (Meaning of charitable or other public benefit gift)**
In section LD 3(2)(ac), replace “entity, if the gift is made in a tax year that the entity meets the requirements to derive exempt income” with “entity, if the gift is made at a time the entity that is eligible to derive exempt income”.
- 110 Section LD 4 amended (Tax credits for payroll donations)** 5
- (1) In section LD 4(1)(a)(i) replace “files by electronic means an employer monthly schedule and a PAYE income payment form” with “provides employment income information by electronic means”.
- (2) In section LD 4(7) replace “24Q” with “~~15X~~**15ZB**”.
- (3) In section LD 4, in the list of defined terms,— 10
- (a) insert “employment income information”;
- (b) delete “employer monthly schedule” and “PAYE income payment form”.
- 111 Section LD 5 amended (Calculating amount of tax credit and filing particulars)**
- (1) In section LD 5(2)(a), replace “an employer monthly schedule and a PAYE income payment form for” with “the employment income information relating to”. 15
- (2) In section LD 5, in the list of defined terms,—
- (a) insert “employment income information”;
- (b) delete “employer monthly schedule” and “PAYE income payment form”. 20
- 112 Section LK 1 amended (Tax credits relating to attributed CFC income)**
- (1) After section LK 1(1), insert:
- Credits for parent companies and group companies*
- (1B) For the purposes of this section and sections **LK 2**, **LK 3**, and **LK 6**, a parent of the person referred to in subsection (1)(d) a company that is part of a group of companies that includes a person with attributed CFC income, or a company that is part of the person’s group of companies, has a tax credit for the tax year corresponding to the income year of an amount that is equal to an amount of foreign income tax paid by the group company in relation to the CFC from which the income is derived. 25 30
- Residence requirements*
- (1C) For the purposes of **subsection (1B)**, the residence requirements set out in section IC 7 (Residence of company A) do not apply to disallow the use of the tax credit by group companies under section LK 6.
- (1B) Replace section LK 1(4), other than the heading, with: 35

(4) In subsection (1), a payment of income tax or foreign income tax by the CFC or person, as applicable, includes an amount of tax withheld from income in New Zealand or another country or territory.

(1C) In **section LK 1(4)**, replace “subsection (1)” with “subsections (1) and **(1B)**”.

(2) In section LK 1, in the list of defined terms, insert “company”, “group of companies”, and “income”. 5

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

112B Section LK 2 amended (Calculation of amount of credit)

(1) In section LK 2(1), replace “LK 1(1)” with “LK 1(1) and **(1B)**”.

(2) In section LK 2(2)(b), replace “paid or payable by the CFC” with “paid or payable by the CFC or the person or, when **section LK 1(1B)** applies, the group company.”. 10

(3) After section LK 2(2), insert:

Modifications to formula: section LK 1(1)(d)

(3) For the purposes of the formula in this section, when section LK 1(1)(d) applies to provide a tax credit for a tax year when foreign income tax is paid by the person in relation to the CFC from which the income is derived, the calculation of the amount of the tax credit is made under subsection (1), ignoring the section EX 18 income interest in subsection (2)(a). 15

(4) After **section LK 2(3)**, insert: 20

Modifications to formula: section LK 1(1B)

(4) For the purposes of the formula in this section, when **section LK 1(1B)** applies to provide a tax credit for a tax year to a group company, the calculation of the amount of the tax credit is made under subsection (1), ignoring the section EX 18 income interest in subsection (2)(a). 25

(5) In section LK 2, in the list of defined terms, insert “company”, “group of companies”, and “income”.

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

113 New subpart LT inserted (Tax credits for petroleum miners)

(1) After section LS 4, insert: 30

Subpart LT—Tax credits for petroleum miners

LT 1 Tax credits for petroleum miners

When this section applies

(1) This section applies for an income year if a petroleum miner or a farm-in party— 35

(a) has—

- (i) been allocated under **section EJ 13(4)** (Permanently ceasing petroleum mining operations) a deduction for the income year:
- (ii) incurred expenditure for which they are entitled to a deduction under **section DT 16** (Decommissioning); and
- (b) notifies the Commissioner before they file the return of income for the income year ~~in a manner prescribed by the Commissioner~~; and 5
- (c) has a net loss for the tax year corresponding to the income year.
- Tax credits*
- (2) The petroleum miner or farm-in party has a tax credit for the tax year corresponding to the income year for an amount calculated using the formula— 10
- amount of loss × tax rate.
- Definition of items in formula*
- (3) In the formula,—
- (a) **amount of loss** is the amount of the net loss described in **subsection (1)(c)** to the extent to which the amount does not exceed the total of the amounts for the deductions referred to in **subsection (1)(a)(i) and (ii)**: 15
- (b) **tax rate** is the basic rate of income tax set out in schedule 1, part A (Basic tax rates: income tax, ESCT, RSCT, RWT, and attributed fringe benefits).
- Maximum amounts* 20
- (4) Despite **subsection (2)**, the maximum amount of the credit must not be more than the lesser of—
- (a) the result of the formula; and
- (b) the amount of income tax paid by—
- (i) for a petroleum miner, the petroleum miner and any consolidated group of which they are a member on net income derived for all earlier tax years, calculated on a year-by-year basis and aggregated: 25
- (ii) for a farm-in party, the farm-in party and any consolidated group of which they are a member on net income derived for all earlier tax years, calculated on a year-by-year basis and aggregated. 30
- Consolidated groups*
- (5) For the purposes of **subsection (4)(b)**, the amount of income tax paid by the consolidated group includes income tax paid on net income derived for tax years before the petroleum miner or farm-in party joined the group. 35
- Treatment of trustees*
- (6) For the purposes of **subsection (4)**, if the petroleum miner or farm-in party is a trustee of a trust, the amount of tax paid for each earlier tax year is determined—

<p>(a) first, by reference to the amount of income tax paid under the obligations of a trustee under section HC 32 (Liability of trustee as agent); and</p> <p>(b) secondly, by reference to the amount of tax paid on trustee income; and</p> <p>(c) calculated on a year-by-year basis and aggregated.</p> <p><i>Calculations on year-by-year basis</i></p> <p>(7) In subsections (4)(b) and (6)(c) a reference to a calculation on a year-by-year basis refers to a calculation starting with the immediately preceding tax year and working backwards to earlier tax years until the amount of tax paid is equal to or more than the amount referred to in subsection (4)(a).</p> <p><i>Treatment of tax losses</i></p> <p>(8) To the extent to which the petroleum miner or farm-in party has a tax credit under this section, the amount of the net loss giving rise to the credit does not form part of a tax loss component for the petroleum miner or farm-in party.</p> <p><i>Nature of tax credits</i></p> <p>(9) The tax credit is available for use under section LA 6(2) (Remaining refundable credits: PAYE, RWT, and certain other items).</p> <p><i>Relationship with other sections</i></p> <p>(10) Subsection (9)(8) overrides section IA 2 (Tax losses).</p> <p>Defined in this Act: amount, amount of tax, Commissioner, consolidated group, decommissioning, deduction, farm-in party, income, income tax, income year, interest, net income, net loss, pay, permit area, petroleum miner, petroleum mining operations, petroleum permit, notify, return of income, tax credit, tax loss, tax loss component, tax year, trustee, trustee income</p> <p>LT 2 Petroleum mining operations outside New Zealand</p> <p><i>Section LT 1 applies with modifications</i></p> <p>(1) Section LT 1 applies as modified by this section to a petroleum miner undertaking petroleum mining operations <u>or decommissioning</u> outside New Zealand through a branch or a controlled foreign company in relation to those operations outside New Zealand.</p> <p><i>Net losses</i></p> <p>(2) The net loss referred to in section LT 1(1)(c) for the petroleum miner is the net loss the petroleum miner would have if section DT 1A(4) (Ring-fenced allocations) did not apply.</p> <p><i>Maximum amounts</i></p> <p>(3) The maximum amount of the credit referred to in section LT 1(4) for the petroleum miner in relation to the petroleum mining operations <u>or decommissioning</u> outside New Zealand must not be more than the lesser of—</p> <p>(a) the result of the formula in section LT 1(2); and</p> <p>(b) the amount of income tax paid by the petroleum miner and any consolidated group of which the petroleum miner is a member on net income</p>	<p>5</p> <p>10</p> <p>10</p> <p>15</p> <p>20</p> <p>25</p> <p>30</p> <p>35</p>
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	derived for all earlier tax years that relates to the petroleum mining operations or decommissioning outside New Zealand, calculated on a year-by-year basis and aggregated.	
	<i>Consolidated groups, trustees, calculations on year-by year basis</i>	
(4)	Section LT 1(5), (6), and (7) applies, with any necessary modifications, for the purposes of subsection (3) .	5
	Defined in this Act: amount, consolidated group, controlled foreign company, decommissioning, farm-in party, income tax, net income, net loss, New Zealand, pay, petroleum miner, petroleum mining operations, tax credit, tax year	
(2)	Subsection (1) applies for the 2018–19 and later income years.	10
113B	<u>Section MD 9 amended (Fifth requirement: full-time earner)</u>	
	<u>Replace section MD 9(2)(b) with:</u>	
	(b) <u>income, other than from a PAYE income payment, to which section RD 3B or RD 3C (which relate to income other than PAYE) applies; or</u>	
113C	<u>Section MD 15 amended (Family scheme income for purposes of section MD 14)</u>	15
	<u>In section MD 15(c) replace “income to which section RD 3(2) to (4) (PAYE income payments) applies” with “income, other than from a PAYE income payment, to which section RD 3B or RD 3C (which relate to income other than PAYE) applies”.</u>	20
114	Section MX 1 amended (When subpart applies)	
	In section MX 1, before subsection (1), insert “ <i>When this subpart applies</i> ” as a subsection heading.	
115	Section MX 4 amended (R&D loss tax credits)	
	In section MX 4, before subsection (1), insert “ <i>Amount of tax credit</i> ” as a subsection heading.	25
116	Section OA 2 amended (Memorandum accounts)	
	In section OA 2(3), replace “a tax year” with “a tax year and each subsequent tax year”.	
117	Section OA 7 amended (Opening balances of memorandum accounts)	30
(1)	Replace section OA 7(2) with:	
	<i>Credits and debits forming opening balances</i>	
(2)	The amount of each credit or debit that forms part of the opening balance of a memorandum account is treated as recorded in the relevant memorandum account on the date on which it was originally recorded.	35
(2)	Replace section OA 7(3), other than the heading, with:	

- (3) If a consolidated group, company, or person starts a memorandum account during a tax year, the treatment of existing credits and debits is set out as follows:
- (a) when the companies of 2 or more consolidated imputation groups choose to combine to form, or to join, an imputation group, *see* section OP 3(2) (Changes in consolidated imputation groups): 5
 - (b) when the companies that are part of an imputation group choose to convert their status to that of a consolidated group that is a consolidated imputation group, *see* section OP 3(3):
 - (c) for a resident imputation subgroup associated with a trans-Tasman imputation group, *see* section OP 4 (Resident imputation subgroups). 10
- (3) In section OA 7, replace the list of defined terms with “amount, company, consolidated group, consolidated imputation group, imputation group, income year, memorandum account, resident imputation subgroup, tax year, trans-Tasman imputation group”.
- 117B Section OB 37 amended (ICA refund of tax credit)** 15
- (1) Before section OB 37(2), insert:
- Exclusion: refund after debit under section OB 41*
- (1C) Despite subsection (1), an ICA company has an imputation debit for a refundable tax credit arising in a tax year after a debit arises under section OB 41, reduced by the lesser of— 20
- (a) the debit under section OB 41:
 - (b) the amount by which the refundable tax credit exceeds the total credits to the company’s imputation credit account, for amounts satisfying the company’s income tax liability, during the period from the date of the debit to the date on which the credit balance is to be determined under sections RM 13 and RM 14 (which relate to limits on refunds for ICA companies). 25
- (2) **Subsection (1)** applies for the 2018–19 and later income years.
- 117C Section OB 47B amended (Tax paid by recipients of R&D loss tax credits)**
- In section OB 47B(1) replace “section MX 6” with “section MX 7”. 30
- 118 Section OP 3 amended (Changes in consolidated imputation groups)**
- (1) Replace section OP 3(4), other than the heading, with:
- (4) The opening balance for a tax year for the imputation credit account of the consolidated imputation group is determined as follows:
- (a) for an imputation group to which subsection (2) applies, the opening balance is equal to the amount that is the sum of the opening balances of each imputation group that is part of the consolidated imputation group: 35

- (b) for an imputation group to which subsection (3) applies, the opening balance is the amount that is the sum of the opening balances of the imputation groups that chose to convert their status.
- (2) In section OP 3, in the list of defined terms, insert “amount” and “tax year”.
- 119 Section OP 4 amended (Resident imputation subgroups)** 5
- (1) After section OP 4(2), insert:
- Opening balances*
- (3) The opening balance of the imputation credit account is an amount equal to the sum of the opening balances of each company that is part of the resident imputation subgroup. 10
- (2) In section OP 4, in the list of defined terms, insert “amount”.
- 119B Section OP 5 amended (When credits and debits arise only in consolidated imputation group accounts)**
- Repeal section OP 5(2)(bb).
- 120 Section OP 22 amended (Consolidated ICA group company’s credit)** 15
- (1A) In section OP 22(1)(c), replace “group company’s account.” with “group company’s account; and” and insert:
- (d) to the extent to which a debit referred to in paragraph (b) is not offset under paragraph (c), a debit balance immediately arises in the imputation credit account of the group. 20
- (1) After section OP 22(1), insert:
- Amount of credit*
- (1B) The amount of the credit referred to in subsection (1) that is transferred to the imputation credit account of the group is limited to the lesser of—
- (a) the amount of the debit balance in the imputation credit account of the group referred to in **subsection (1)(d)**; and referred to in subsection (1)(b); or 25
- (b) the amount of the debit referred to in subsection (1)(b) that is not offset by a credit as described in subsection (1)(e) credit balance of the imputation credit account of the group company referred to in subsection (1)(a), determined at the time of the debit to the imputation credit account of the group referred to in subsection (1)(b). 30
- (2) **Subsections (1A) and (1)** apply for the 2008–09 and later income years.
- 120B Section OP 35 amended (Consolidated ICA refund of tax credit)**
- (1) Before section OP 35(2), insert: 35

Exclusion: refund after debit under section OP 42

(1C) Despite subsection (1), a consolidated imputation group has an imputation debit for a refundable tax credit arising for a group company in a tax year after a debit arises under section OP 42, reduced by the lesser of—

(a) the debit under section OP 42: 5

(b) the amount by which the refundable tax credit exceeds the total credits to the group’s imputation credit account, for amounts satisfying the group’s income tax liability, during the period from the date of the debit to the date on which the credit balance is to be determined under sections RM 13 and RM 14 (which relate to limits on refunds for ICA companies). 10

(2) **Subsection (1)** applies for the 2018–19 and later income years.

120C Table O19 amended (Imputation credits of consolidated imputation groups)

(1) In table O19, row 20, replace “non-resident withholding income” with “non-resident passive income”. 15

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

121 Tables of credits and debits in memorandum accounts amended

The tables of credits and debits in memorandum accounts are amended by repealing the row number in column 2 from the table in column 1. 20

Table reference	Repeal row number
Table O1: imputation credits	row 1
Table O2: imputation debits	row 1
Table O3: FDP credits	row 1
Table O4: FDP debits	row 1
Table O5: conduit tax relief credits	row 1
Table O6: conduit tax relief debits	row 1
Table O9: person’s branch equivalent tax credits	row 1
Table O10: person’s branch equivalent tax debits	row 1
Table O11: ASC credits	row 1
Table O12: ASC debits	row 1
Table O17: Maori authority credits	row 1
Table O18: Maori authority debits	row 1
Table O19: imputation credits of consolidated imputation groups	row 1
Table O20: imputation debits of consolidated imputation groups	row 1

Table O21: FDP credits of consolidated FDP groups	row 1
Table O22: FDP debits of consolidated FDP groups	row 1
Table O26: branch equivalent tax debits of consolidated BETA groups	row 1

122 Section RA 11 amended (Adjustment to correct errors: certain underpayments)

- (1) ~~Replace section RA 11(1), other than the heading, with:~~
- (1) ~~This section applies when—~~
- (a) ~~a person (the payer) is required to withhold an amount of tax for resident passive income or non-resident passive income in relation to a payment to another person (the payee); and~~ 5
- (b) ~~the payer, through an error, does not withhold some or all of the amount.~~
- (2) ~~In section RA 11(2), replace “The payer may” with “To correct the error, the payer may”.~~ 10
- (3) ~~Replace section RA 11(3), other than the heading, with:~~
- (3) ~~For the purposes of subsection (2)(a),—~~
- (a) ~~the later payment must be a payment made by the payer in the same tax year as the year in which the error is made; or~~
- (b) ~~if the later payment is made in the next tax year, the adjustment must be no more than the greater of—~~ 15
- (i) ~~\$2,000; or~~
- (ii) ~~5% of the payer’s withholding liability for RWT or NRWT, as applicable, for the tax year in which the first payment is made to the payee.~~ 20
- (4) ~~After section RA 11(3), insert:~~
- ~~*Requirements when recovering amounts from payees*~~
- (4) ~~For the purposes of subsection (2)(b), the recovery action must be taken in the same tax year as the year in which the error is made.~~
- ~~*When adjustments made*~~ 25
- (5) ~~An adjustment that meets the requirements set out in **subsection (3) or (4)** is treated as made on the due date for the amount of tax referred to in **subsection (1)(a)**.~~
- ~~*Notifying Commissioner of adjustments*~~
- (6) ~~The payer must notify the Commissioner at the earliest possible opportunity of an adjustment to which **subsection (3)(b)** applies, or otherwise by the next~~ 30

relevant date for the type of investment income referred to in **section 25C(a) and (b)** of the Tax Administration Act 1994, including in their notification—

- (a) the information in schedule 6, table 1, rows 1 to 7, 10, 16, and 29 of that Act; and
- (b) adjustments to the items referred to in **schedule 6, table 1, rows 8, 9, 11, 14, and 15** of that Act.

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(5) In section RA 11, in the list of defined terms,—

- (a) insert “amount of tax”, “investment income”, and “notify”;
- (b) delete “dividend treated as interest” and “interest”.

122B Section RA 11 replaced (Adjustment to correct errors: certain underpayments)

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Replace section RA 11 with:

RA 11 Adjustment to correct errors: certain underpayments

When this section applies

(1) This section applies when—

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- (a) a person (the **payer**) is required to withhold an amount of tax for resident passive income or non-resident passive income in relation to a payment to another person (the **payee**); and
- (b) the payer, through an error, does not withhold some or all of the amount.

Adjustments for errors

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(2) To correct the error, the payer may make an adjustment by—

- (a) subtracting from a later payment to the payee an amount to correct the deficiency; or
- (b) recovering from the payee an amount to correct the deficiency; or
- (c) for a non-cash dividend, adjusting the amount that is subject to tax.

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Timing of and limitations on adjustments

(3) Subject to **subsection (4)**, —

- (a) for an adjustment for an error discovered in the tax year in which it is made (**year 1**), the payer must, if it is reasonably practical to do so, make the adjustment under **subsection (2)** by the next regular reporting date for the delivery of investment income information relating to the payee;

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- (b) for an adjustment for an error discovered in a tax year following that in which the error is made (**year 2**), the payer may make an adjustment under **subsection (2)** by the next regular reporting date in year 2 but only to the extent to which the total adjustments made by the payer in year 2 relating to year 1 are no more than the greater of—

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<ul style="list-style-type: none"> (i) <u>\$2,000; or</u> (ii) <u>5% of the payer’s withholding liability for RWT or NRWT, as applicable, for the tax year in which the first payment is made to the payee.</u> 	5
<i>Requirements when recovering amounts from payees</i>	
(4) <u>For the purposes of subsection (2)(b), the recovery action must be taken in the same tax year in which the error is made.</u>	
<i>When adjustments made</i>	
(5) <u>An adjustment under this section is treated as made on the due date for the amount of tax referred to in subsection (1)(a).</u>	10
<i>Notifying Commissioner of adjustments</i>	
(6) <u>The payer must notify the Commissioner of an adjustment made under subsection (3)(b) at the time it is made, including in their notification—</u>	
(a) <u>the information in schedule 6, table 1, rows 1 to 7, 10, 16, and 22 of the Tax Administration Act 1994, as applicable; and</u>	15
(b) <u>adjustments to the items referred to in schedule 6, table 1, rows 8, 9, 11, 14, 15, and 21 of that Act, as applicable.</u>	
<u>Defined in this Act: amount, amount of tax, Commissioner, investment income information, non-cash dividend, non-resident passive income, notify, NRWT, pay, resident passive income, RWT, tax year</u>	
123 Section RA 12 amended (Adjustment to correct errors: certain excess amounts)	20
(1) <u>Replace section RA 12(2), other than the heading, with:</u>	
<i>Refunding excess amounts of resident and non-resident passive income</i>	
(2) <u>For a payment of resident passive income or non-resident passive income, the payer may pay the excess amount to the payee at any time before the 20th of April after the end of the tax year in which the amount is withheld if the payer has not reported to the payee under section 26C, 29, or 31 of the Tax Administration Act 1994, providing the details set out in those provisions.</u>	25
(1B) <u>In section RA 12(3), replace “RWT” with “RWT or NRWT, as applicable”.</u>	
(2) <u>Replace section RA 12(4), other than the heading, with:</u>	30
<i>Notifying payee and Commissioner of excess amounts</i>	
(4) <u>If the payer has not refunded the amount to the payee, the payer must notify the following of the excess amount by the date referred to in subsection (2):</u>	
(a) the payee:	
(b) the Commissioner.	35

Notifying Commissioner of refunds paid

- (4B) If the payer has refunded the amount to the payee, the payer must notify the Commissioner of the payment and of the amount of the refund at the time of paying the refund.
- (2B) In section RA 12(6), replace “if the excess amount has been refunded to the payee” with “if the payer has refunded the excess amount to the payee and has not received a refund from the Commissioner”. 5
- (3) In section RA 12(6)(a), replace “noting the action in the statement required under section 50 of the Tax Administration Act 1994” with “noting the action in the investment income information required under **subpart 3E** of the Tax Administration Act 1994”. 10
- (4) In section RA 12, in the list of defined terms,—
- (a) insert “investment income information” and “notify”;
- (b) delete “dividend”, “dividend treated as interest”, “interest”, “Maori authority”, “notice”, “RWT withholding certificate”, “shareholder dividend statement”, and “taxable Maori authority distribution”. 15

124 Section RA 15 amended (Payment dates for interim and other tax payments)

- (1) In section RA 15(4), replace “subsection (3)” with “subsection (3)(a)(ii)”. 20
- (2) Replace section RA 15(5) and (6) with:

Discrepancies

- (5) ~~When a discrepancy arises in relation to investment income information for resident passive income or non-resident passive income, and an amount of RWT or NRWT remains unpaid, the person required to withhold the amount must pay it to the Commissioner by the later of —~~ 25
- (a) ~~20 April after the end of the tax year in which the information was provided;~~
- (b) ~~the last date for providing the information.~~

Assessed amounts

- (6) ~~**Subsection (5)** does not apply to an unpaid amount that the Commissioner assesses for a particular return period.~~ 30

(2B) Repeal section RA 15(5) and (6).

- (3) In section RA 15, in the list of defined terms, insert “amount” and “investment income information”.

125 Section RA 16 amended (Payment date when taxable activity ends) 35

- (1) In section RA 16(3), replace “if the person continues to hold an RWT exemption certificate” with “if the person’s RWT-exempt status continues”.
- (2) In section RA 16, in the list of defined terms,—

- (a) insert “RWT-exempt status”;
- (b) delete “RWT exemption certificate”.
- 126 Section RA 17 amended (Payment date when RWT exemption certificate expires)**
- (1) In section RA 17, in the section heading, replace “**when RWT exemption certificate expires**” with “**when RWT-exempt status ends**”. 5
- (2) In section RA 17(1), replace “when an RWT exemption certificate of a person expires” with “when a person’s RWT-exempt status ends”.
- (3) In section RA 17(2), replace “the certificate expires” with “the status ends”.
- (4) In section RA 17, in the list of defined terms,— 10
- (a) insert “RWT-exempt status”;
- (b) delete “RWT exemption certificate”.
- 127 Section RC 3 amended (Who is required to pay provisional tax?)**
- (1) In section RC 3(2)(c), delete “certificate”.
- (2) In section RC 3, in the list of defined terms, delete “exemption certificate”. 15
- 128 Section RC 19 amended (Disposal of assets)**
- In section RC 19(2)(a), replace “of that Act” with “of the Goods and Services Tax Act 1985”.
- 128B New section RC 35B inserted (Treatment of overpaid provisional tax instalments calculated using AIM method)** 20
- (1) After section RC 35, insert:
- RC 35B Treatment of overpaid provisional tax instalments calculated using AIM method**
- When this section applies*
- (1) This section applies for the purposes of sections RC 5(5B), RC 7B, RC 9(4B), RC 10B, and RM 6B (Refunds for overpaid AIM method instalments) when— 25
- (a) a company uses the AIM method to calculate and pay a provisional tax liability; and
- (b) the amount of an instalment of provisional tax is overpaid.
- Overpaid amounts credited to shareholders* 30
- (2) The company may ask the Commissioner to credit the overpaid amount to the account of a shareholder of the company, treating the amount as—
- (a) an amount transferred for the purposes of Part 7 of the Tax Administration Act 1994 as provided by **section 120LB** of that Act:

- (b) a refund of income tax paid to the company for the purposes of section OB 32 (ICA refund of income tax).
- Maximum amount*
- (3) The amount that may be credited under **subsection (2)** must be no more than the least of the following: 5
- (a) an amount chosen by the company; and
- (b) the amount of the shareholder’s residual income tax for the relevant tax year less the amount of any tax credit that the shareholder has under section LB 2 (Tax credits for provisional tax payments) for the tax year, treating a negative amount as zero; and 10
- (c) the amount of the company’s tax credit under section LB 2 for the relevant tax year less the amount of the company’s residual income tax for the tax year, treating a negative amount as zero.
- Defined in this Act: amount, Commissioner, company, income tax, pay, provisional tax, residual income tax, shareholder, tax credit 15
- (2) **Subsection (1)** applies for the 2018–19 and later income years.
- 129 Section RD 2 amended (PAYE rules and their application)**
- (1) In section RD 2(1)(e), replace “sections 15C to 15M” with “sections 15C to 15F, 15J to 15L”.
- (2) Replace section RD 2(1)(e) with: 20
- (e) sections 15C to 15F, 15J to 15L, **22AA, subparts 3C and 3D**, section 133, Part 9, sections 167 to 169, and **schedules 4 and 5** of the Tax Administration Act 1994.
- 129B Section RD 3B amended (Shareholders who are employees, for some companies: income other than PAYE)** 25
- (1) In section RD 3B(1), replace “if” with “if the person elects to apply this section and”.
- (2) Replace section RD 3B(1)(a) with:
- (a) the person does not derive as an employee payments of salary or wages of a regular amount for regular pay periods of 1 month or less throughout the income year: 30
- (ab) the person derives less than 66% of their annual gross income as an employee from payments of salary or wages of a regular amount for regular pay periods throughout the income year:
- (3) Repeal section RD 3B(2). 35

129C Section RD 3C amended (Shareholders who are employees, for some companies: PAYE and income other than PAYE)

- (1) In section RD 3C(1), replace “if” with “if the person elects to apply this section and”.
- (2) Repeal section RD 3C(2). 5

130 Section RD 4 replaced (Payment of amounts of tax to Commissioner)

Replace section RD 4 with:

RD 4 Payment of amounts of tax to Commissioner

Payments monthly or twice-monthly

- (1) An employer or PAYE intermediary who withholds an amount of tax for a PAYE income payment ~~paid to an employee~~ must pay the amount to the Commissioner as follows: 10
- (a) on a monthly basis, if they are an employer to whom **subsection (2)** applies:
- (b) for 2 payment periods in a month, if **paragraph (a)** does not apply. 15

Monthly payments

- (2) For the purposes of **subsection (1)(a)**, an employer must pay the amount of tax withheld by the 20th day of the month following the month in which the ~~amount is withheld~~ PAYE income payment is made if they are— 20
- (a) an employer who—
- (i) is not a new employer; and
- (ii) has, for the preceding tax year, gross amounts of tax of less than \$500,000 withheld under section RA 5(1)(a) and (c) (Tax obligations for employment-related taxes):
- (b) a new employer who has, for the current tax year, gross amounts of tax withheld under section RA 5(1)(a) and (c) that total less than \$500,000. 25

Twice-monthly payments

- (3) An employer to whom **subsection (1)(b)** applies must pay the amount of tax withheld to the Commissioner by the dates referred to in section RA 15(3)(a) ~~(2)~~ (2) (Payment dates for interim and other tax payments). 30

Liability when amount not withheld

- (4) If some or all of the amount of tax for a PAYE income payment is not withheld ~~and paid~~ under **subsection (1)**, the employee in relation to whom the payment is required to have been made must pay to the Commissioner under **section RD 21** an amount equal to the amount of tax by the 20th day of the month following the month in which the ~~amount is withheld~~ PAYE income payment was made. 35

Amounts aggregated for threshold purposes

- (5) For the purposes of determining whether a threshold referred to in **subsection (2)(a)(ii) and (b)** is reached, if the employer ends their business and starts a new business, or operates 2 or more businesses at the same time, all amounts of tax withheld must be aggregated. 5

Persons treated as single employers

- (6) For the purposes of this section, the following are treated as 1 employer:
- (a) 2 or more companies if they are part of a group of companies at a time in the relevant tax year:
 - (b) all partners in a partnership: 10
 - (c) all persons in whom property has become vested, or to whom the control of property has passed in the case of—
 - (i) an estate of a deceased person; or
 - (ii) a trustee of a trust; or
 - (iii) a company in liquidation; or 15
 - (iv) an assigned estate; or
 - (v) another fiduciary relationship.

Threshold changes by Order in Council

- (7) The Governor-General may, on the recommendation of the Minister of Revenue, make an Order in Council amending the threshold amount referred to in **subsection (2)**. Before making the recommendation, the Minister must undertake consultation on the proposed amendment that is appropriate and reasonable for the purposes of this section. 20

Defined in this Act: amount, amount of tax, business, Commissioner, company, employee, employer, gross, group of companies, partner, partnership, pay, PAYE income payment, PAYE intermediary, payment period, tax year, trustee 25

131 Section RD 6 amended (Certain benefits and payments)

- (1) In section RD 6(1)(d), replace “section CE 2(2) and (4) (Value and timing of benefits under share purchase agreements)” with “**section CE 1(1)(d)** (Amounts derived in connection with employment)”. 30
- (2) In section RD 6(3)(a),—
- (a) in subparagraph (i), replace “CE 2(10) (Value and timing of benefits under share purchase agreements)” with “**CE 2(7)** (Benefits under employee share schemes)”:
 - (b) in subparagraph (i), replace “CE 2(11) (Value and timing of benefits under share purchase agreements)” with “**CE 2(8)**”: 35
 - (c) in subparagraph (ii), replace “CE 2(10)” with “**CE 2(7)**”.

132 Section RD 6 amended (Certain benefits and payments)

(1A) In section RD 6(1)(d), replace “an election under section RD 7B.” with “an election under section RD 7B; or” and insert:

(e) a payment made to them as a person on a shadow payroll.

(1) Replace **section RD 6(3)(a)** with:

(a) for a benefit referred to in subsection (1)(d), on the ESS deferral date on which the employee is treated as deriving the benefit under **section CE 2(8)** (Benefits under employee share schemes); or

(1B) After section RD 6(3), insert:

Employees on shadow payrolls

(4) For the purposes of the PAYE rules, a payment referred to in **subsection (1)(e)** is treated as paid to the employee—

(a) on the day that the amount is paid by the non-resident employer, that is the payday for the purposes of **sections 23E to 23H and 23IB(2)** of the Tax Administration Act 1994:

(b) on the 20th day after the amount is paid by the non-resident employer, that is the 20th day referred to in **section 23IB(3)** of that Act.

Meaning of payment to person on shadow payroll

(5) For the purposes of this section, a payment made to a person on a shadow payroll is a PAYE income payment paid by a non-resident employer to a person who undertakes employment services in New Zealand but who remains on the employer’s payroll system in a country or territory outside New Zealand.

(2) In section RD 6, in the list of defined terms,—

(a) insert “employment income information”, “ESS deferral date”, “New Zealand”, “non-resident”, and “PAYE income payment”:

(b) delete “PAYE income payment form period”.

133 Section RD 7 amended (Extra pay)

In section RD 7(1)(bb), replace “section CE 2(2) and (4) (Value and timing of benefits under share purchase agreements)” with “**section CE 1(1)(d)** (Amounts derived in connection with employment)”.

134 Section RD 7 amended (Extra pay)

(1) Replace **section RD 7(1)(b)(iv)** with:

(iv) as a result of a retrospective increase in salary or wages, but only to the extent to which it accrues from the start of the increase until the start of the first pay period in which the increase is included in salary or wages; and

(2) Repeal **section RD 7(2)**.

134B Section RD 7 amended (Extra pay)

(1) After **section RD 7(2)**, insert:

Remedial payments for certain entitlements

(3) A remedial payment made in relation to 1 or more of a person’s entitlements under the Holidays Act 2003, an employment agreement, or both, is treated as an extra pay if— 5

(a) the payment is made to a person in connection with their employment; and

(b) but for this subsection, the payment would be a payment of salary or wages or an extra pay, or a combination of both; and 10

(c) the payment is made to the person to meet all or part of a shortfall in 1 or more previous payments to the person who has an entitlement under the Holidays Act 2003, or an employment agreement, or both.

Exclusion

(4) A payment made to a person to address some or all of a failure to pay the person any salary or wages for a pay period is excluded from a remedial payment under **subsection (3)**. If more than 1 payment is made to the person to address the failure, this subsection applies to exclude only the first of these payments. 15

Meaning of employment agreement 20

(5) For the purposes of **subsection (3)**, an **employment agreement** has the meaning given by section 5 of the Employment Relations Act 2000 except that—

(a) it includes an individual employment contract continued in force by section 242(1) of that Act; and 25

(b) it excludes a contract for services described in paragraph (b) of the definition.

(2) **Subsection (1)** does not apply to a person in relation to a tax position taken by them—

(a) in the period from 1 April 2008 to 17 August 2017; and 30

(b) relating to the taxation treatment of a remedial payment made in relation to an entitlement under the Holidays Act 2003 or an employment agreement; and

(c) relying on the treatment of the entitlement under the PAYE rules according to the character that the payment would have had if the entitlement had been paid at the time at which it should have been paid. 35

135 Section RD 7B amended (Treatment of certain benefits under employee share agreements)

(1) In the heading to section RD 7B, replace “**agreements**” with “**schemes**”.

- (2) Replace section RD 7B(1) and (2) with:
- When this section applies*
- (1) This section applies for an employee or a former employee who receives a benefit under **section CE 1(1)(d)** (Amounts derived in connection with employment) in relation to an employee share scheme. 5
- (3) In section RD 7B(3), replace “share purchase agreement” with “employee share scheme”.
- (4) In section RD 7B, in the list of defined terms,—
- (a) insert “employee share scheme”;
- (b) delete “share purchase agreement”. 10
- 136 Section RD 7B amended (Treatment of certain benefits under employee share agreements)**
- (1) Replace **section RD 7B(3)(b) and (c)**, with:
- (b) including the value of the benefit in their employment income information under **subpart 3C** of the Tax Administration Act 1994, ~~treating the ESS deferral date as the relevant payday.~~ 15
- (2) In **section RD 7B**, in the list of defined terms,—
- (a) insert “employment income information”, ~~“ESS deferral date”, and “payday”~~;
- (b) delete “employer monthly schedule”. 20
- 137 Section RD 8 amended (Schedular payments)**
- (1) Replace section RD 8(1)(b)(iv) with:
- (iv) ~~a payment to which an exempt payment referred to in **section 24GB(2)** and **schedule 5, part C, clause 6B** of the Tax Administration Act 1994 applies; or~~ 25
- (2) In section RD 8, in the list of defined terms, delete “exemption certificate”.
- 138 Section RD 10 amended (Amounts of tax for PAYE income payments)**
- (1) In section RD 10(1), replace “Subsections (2) and (3)” with “Subsections (2), (2B), **(2C)**, **(2D)**, and (3)”.
- (2) After section RD 10(2B), insert: 30
- Rates for extra pays: non-resident seasonal workers*
- (2C) The amount of tax for an extra pay that is paid to a non-resident seasonal worker is calculated at the rate set out in **schedule 2, part B, table 1, row 1B** (Basic tax rates for PAYE income payments). This rate applies for both a worker who has notified their employer under section 24B of the Tax Administration Act 1994 of their tax code under schedule 2, part A, clause 8, and a worker 35

to whom **section 24B(3C)** of that Act applies. This subsection overrides subsection (2).

Rates for extra pays: non-notified tax codes

(2D) The amount of tax for an extra pay that is paid to an employee who has not notified their employer of their tax code, is calculated at the rate set out in **schedule 2, part B, table 1, row 5**. 5

(3) In **section RD 10(2C)**,—

(a) replace “section 24B” with “**section 24C**”:

(b) replace “**section 24B(3C)**” with “**schedule 5, part B, clause 3**”.

(4) In section RD 10, in the list of defined terms, insert “non-resident seasonal worker”. 10

139 Section RD 10B amended (Amounts of tax for schedular payments)

(1) Replace section RD 10B(2) to (4) with:

Basic rates

(2) When the person making the schedular payment has been notified under **section 24GC** of the Tax Administration Act 1994 of the payee’s name and tax file number ~~under **section 24F(5)** of the Tax Administration Act 1994~~, the person must withhold an amount of tax for the payment that is at— 15

(a) the payee’s elected rate, for a payee, other than a payee referred to in **paragraph (b)**, who chooses a tax rate under **section 24F(3)** of that Act: 20

(b) the special tax rate set by the Commissioner, for a payee who has been provided with a special tax rate under **section 24G** of that Act:

(c) in other cases, the applicable tax rate set out in schedule 4 (Standard rates of tax for schedular payments). 25

Rates set by Commissioner

~~(3) Despite subsection (2), if the Commissioner has set a tax rate under **section 24F(4)**, the person making the schedular payment must use that rate in relation to the payment, subtracting the amount notified or the percentage prescribed and paying it to the Commissioner.~~ 30

(3) Despite **subsection (2)**, if the person making the schedular payment has been notified of a rate under **section 24F(4)** of that Act, the person must use that rate in relation to the payment, subtracting the amount notified or the amount equal to the percentage prescribed, as applicable, and paying the amount to the Commissioner. 35

Default rates

(4) ~~Subject to **subsections (2) and (3)**,~~When the person making the schedular payment has not been notified of the payee’s name and tax file number under

- section 24GC**, the person must withhold an amount of tax for the payment that is—
- (a) for a payee that is a company that is a non-resident ~~contractor~~, 20% of the amount of the payment:
 - (b) in all other cases, 45% of the amount of the payment. 5
- (2) In section RD 10B, in the list of defined terms, insert “amount” and “Commissioner”.
- 140 New section RD 10C inserted (Calculating amounts of tax following changes to rates or thresholds)** 10
- After section RD 10B, insert:
- RD 10C Calculating amounts of tax following changes to rates or thresholds**
- When a change occurs to a rate or threshold in this Act or the Tax Administration Act 1994 affecting the amount of tax for a PAYE income payment, the calculation of the amount of tax must be made using the rate applying on the day on which the PAYE income payment is paid or is otherwise under this Act treated as paid. 15
- Defined in this Act: amount of tax, pay, PAYE income payment
- 141 Section RD 12 replaced (Multiple payments of salary or wages)**
- Replace section RD 12 with:
- RD 12 Multiple payments of salary or wages** 20
- When this section applies*
- (1) This section applies when an employee receives more than 1 payment of salary or wages from their employer in a week or part of a week. The employment may relate to 1 or more employment situations with that employer.
- What this section does not apply to* 25
- (2) This section does not apply to salary or wages from employment as a casual agricultural employee, election-day worker, or non-resident seasonal worker.
- Treatment as 1 payment*
- (3) The total amount of tax for all payments of salary or wages is the amount that would be required to be withheld if all the payments were treated as 1 payment made by the employer for the week. 30
- Defined in this Act: amount of tax, casual agricultural employee, election-day worker, employee, employer, employment, non-resident seasonal worker, pay, salary or wages
- 142 Section RD 13 replaced (Advance payments of salary or wages)**
- Replace section RD 13 with: 35

RD 13 Advance payments

When this section applies

- (1) This section applies when an employee receives from their employer—
- (a) an advance payment of salary or wages referred to in section RA 5(1)(a) and (c) (Tax obligations for employment-related taxes): 5
 - (b) an amount of holiday pay that is paid—
 - (i) in a lump sum before the employee takes their holiday; and
 - (ii) when the employee’s employment is continuing.

Employers’ elections

- (2) The employer may choose to treat the amount as— 10
- (a) an extra pay; or
 - (b) a lump sum paid and spread over the pay period or periods to which it relates.

Choosing to treat amounts as lump sum payments

- (3) **Subsections (4) and (5)** apply when an employer chooses under **subsection (2)(b)** to treat the amount as a lump sum. 15

Calculating amounts of tax for lump sum payments

- (4) The amount of tax for the lump sum payment is determined by—
- (a) apportioning the lump sum to the pay period or pay periods to which it relates based on the employee’s usual hours of work; and 20
 - (b) calculating the amount of tax for each portion of the lump sum, treating the portion as if it were the only payment of salary or wages paid by the employer to the employee for the particular pay period; and
 - (c) adding together the amounts of tax for each portion. 25

Calculating amounts of tax for salary or wages 25

- (5) The amount of tax for a payment of salary or wages for a pay period referred to in **subsection (4)(a)** that is made after the payment of the lump sum, is found by—
- (a) adding together—
 - (i) the amount of the payment of salary or wages for the pay period; and 30
 - (ii) the portion of the lump sum that relates to the pay period as determined under **subsection (4)(a)**; and
 - (b) calculating the amount of tax that must be withheld for the total amount referred to in **paragraph (a)**, treating that amount as if it were a single payment of salary or wages paid by the employer to the employee for the pay period; and 35

(c)	subtracting the amount of tax for the portion of the lump sum that relates to the pay period as described in subsection (4)(b) .	
	Defined in this Act: amount, amount of tax, employee, employer, employment, extra pay, pay, pay period, salary or wages	
143	Section RD 13B amended (Adjustments for payroll donations)	5
(1)	In section RD 13B(2) replace “record the information in the relevant employer monthly schedule” with “include in their employment income information the items described in schedule 4, table 1, row 5(a) of the Tax Administration Act 1994”.	
(2)	In section RD 13B, in the list of defined terms,—	10
	(a) insert “employment income information”:	
	(b) delete “employer monthly schedule”.	
144	Section RD 14 repealed (Changes to tax rates for salary or wages)	
	Repeal section RD 14.	
144B	Section RD 16 amended (Payments to private domestic workers)	15
	In section RD 16(2), replace “and RD 4(2)” with “and RD 4(4) ”.	
145	Section RD 17 amended (Payment of extra pay with other PAYE income payments)	
(1)	After section RD 17(1B), insert:	
	<i>Exclusion: non-resident seasonal workers and non-notified tax codes</i>	20
(1C)	This section does not apply to—	
	(a) a non-resident seasonal worker who—	
	(i) has a tax code under section 24B(3C) of the Tax Administration Act 1994; or	
	(ii) has notified their employer of their tax code under section 24B(3)(gb) of that Act:	25
	(b) an employee who has a no notification tax code under section 24B(3B) of that Act.	
(2)	Replace section RD 17(1C) , other than the heading, with:	
(1C)	This section does not apply to —	30
	(a) a non-resident seasonal worker—	
	(i) who has notified their employer of their tax code, for which <i>see</i> section RD 10(2C) :	
	(ii) to whom schedule 5, part B, clause 3 of the Tax Administration Act 1994 applies:	35

(b)	an employee who has a non-notified tax code referred to in schedule 2, part A, clause 3 .	
(3)	In section RD 17(3), replace “section 24B(3)(bb), (c), (d), or (e)” with “ schedule 5 part A, clause 4, rows 3 to 6 ”.	
(4)	In section RD 17, in the list of defined terms, insert “non-resident seasonal worker” and “tax code”.	5
146	Section RD 18 amended (Schedular payments without notification) In section RD 18(1), replace “section 24L” with “ section 24F(5) ”.	
147	Section RD 21 amended (When amounts of tax not withheld or payment insufficient)	10
(1)	Replace section RD 21(1)(a) with:	
(a)	provide the relevant employment income information under section 23I of the Tax Administration Act 1994 to the Commissioner; and	
(2)	In section RD 21(3), replace “section RD 4(2)” with “ section RD 4(4) ”.	
(3)	In section RD 21, in the list of defined terms,—	15
(a)	insert “employment income information”:	
(b)	delete “employer monthly schedule”.	
148	Section RD 22 replaced (Returns for amounts of tax paid to Commissioner) Replace section RD 22 with:	20
RD 22 Providing employment income information to Commissioner		
<i>Employment income information</i>		
(1)	An employer or PAYE intermediary who withholds an amount of tax for a PAYE income payment must provide the relevant employment income information to the Commissioner under sections 23E to 23H of the Tax Administration Act 1994 by the dates set out in those provisions.	25
<i>Special tax codes or rates of tax</i>		
(1B)	Subsection (1) also applies to require an employer or PAYE intermediary to deliver employment income information in relation to an employee who has—	
(a)	a special tax code of zero provided by the Commissioner under section 24D of the Tax Administration Act 1994;	30
(b)	a special tax rate of zero provided by the Commissioner under section 24G of that Act.	
<i>Benefits under employee share schemes</i>		
(2)	For a benefit that an employee or former employee of an employer receives under an employee share scheme, the employer or PAYE intermediary must	35

provide the relevant employment income information to the Commissioner under **sections 23E to 23H** of that Act as modified by **section 23J** of that Act.

- (3) **Subsection (2)** does not apply—
- (a) when the employee share scheme beneficiary is a former employee for whom the employer has not chosen under **section RD 7B** to withhold an amount of tax: 5
- (b) to a benefit under share purchase scheme.
- Exception*
- (3) **Subsection (2)** does not apply— 10
- (a) when the employee share scheme beneficiary is a former employee for whom the employer has not chosen under **section RD 7B** to withhold an amount of tax:
- (b) to a benefit under an exempt ESS. 15
- Defined in this Act: amount of tax, Commissioner, employee share scheme, employee share scheme beneficiary, employer, employment income information, exempt ESS, pay, PAYE income payment, PAYE intermediary, ~~share purchase scheme~~

149 Section RD 23 amended (Bonds given by employers of certain non-resident employees)

- (1) In section RD 23(3)(b), replace “an employer monthly schedule” with “employment income information”. 20
- (2) In section RD 23(3)(c), replace “section 24B(3)(h)” with “**section 24B(3B)**”.
- (3) In **section RD 23(3)(c)**, replace “the **no notification** rate referred to in **section 24B(3B)**” with “a non-notified tax code under **section 24E**”.
- (4) In section RD 23, in the list of defined terms,— 25
- (a) insert “employment income information”:
- (b) delete “employer monthly schedule”.

150 Section RD 24 amended (Exemption certificates for non-resident contractors)

- (1) In section RD 24, in the section heading, replace “**Exemption certificates**” with “**Exemptions**”. 30
- (2) In section RD 24(2),—
- (a) replace the subsection heading with “*Exemptions*”:
- (b) replace “an exemption certificate under section 24M” with “an exemption under **section 24GB(2)**”. 35
- (3) In section RD 24, in the list of defined terms, delete “exemption certificate”.

150B Section RD 36 amended (Repayment of employment-related loans)

- (1) In section RD 36(2), in the words before the paragraphs, replace “income” with “an amount”.
- (2) Replace section RD 36(2)(b) with:
- (b) is payable by the relevant employer without any amount of tax being withheld and paid under the PAYE rules, the RWT rules, or the NRWT rules, or is a fully imputed dividend; and 5

150C Section RD 51 amended (Calculation of all-inclusive pay)

Replace section RD 51(6)(b) with:

- (b) income, other than from a PAYE income payment, to which section RD 3B or RD 3C applies; and 10

150D Section RD 52 amended (Calculation for certain employees when information lacking)

In section RD 51(1)(a), replace “income to which section RD 3(2) or (4) applies” with “income, other than from a PAYE income payment, to which section RD 3B or RD 3C applies”. 15

150E Section RD 57 amended (Private use of motor vehicle: when schedular value used)

- (1) In section RD 57(3), replace “schedule 5, clause 6(b), (c), (d), or (e)” with “schedule 5, clause 10(b) to (e)”. 20
- (2) **Subsection (1)** applies for the 2008–09 and later income years.

151 Section RD 64 amended (ESCT rules and their application)

- (1) In section RD 64(1)(c), replace “sections 15C to 15M” with “sections 15C to 15F, 15J to 15L”.
- (2) Replace section RD 64(1)(c) with: 25
- (c) sections 15C to 15F, 15J to 15L, **22AA, subparts 3C and 3D**, section 47, Part 9, and **schedules 4 and 5** of the Tax Administration Act 1994.

151B Section RD 65 amended (Employer’s superannuation cash contributions)

In section RD 65(3), replace “section RD 22(3)” with “**RD 4(2)**”.

152 New section RD 67B inserted (Calculating amounts of tax following changes to rates or thresholds) 30

After section RD 67, insert:

RD 67B Calculating amounts of tax following changes to rates or thresholds

When a change occurs to a rate or threshold in this Act or the Tax Administration Act 1994 affecting the amount of tax for an employer’s superannuation 35

cash contribution, the calculation of the amount of tax must be made using the rate applying on—

- (a) the day on which the PAYE income payment to which the contribution relates is paid or is otherwise under this Act treated as paid; or
- (b) for a contribution that is not tied to a particular PAYE income payment, the day on which the contribution is paid. 5

Defined in this Act: amount of tax, employer’s superannuation cash contribution, pay, PAYE income payment

153 Section RE 2 amended (Resident passive income)

- (1) In section RE 2(3)(b), replace “who holds an RWT exemption certificate issued” with “who has RWT-exempt status”. 10
- (2) Repeal section RE 2(5)(a)(iii).
- (3) In section RE 2(5)(d), replace “who holds an RWT exemption certificate issued” with “who has RWT-exempt status”.
- (3B) In section RE 2(5)(g), replace “at the time of the payment:” with “at the time of the payment, other than a dividend referred to in section CW 10(3):”. 15
- (4) In section RE 2, in the list of defined terms,—
 - (a) insert “RWT-exempt status”:
 - (b) delete “RWT exemption certificate”.
- (5) **Subsection (3B) applies for the 2019–20 and later income years.** 20

154 Section RE 4 amended (Persons who have withholding obligations)

- (1) In section RE 4(3)(a), replace “holds an RWT exemption certificate” with “has RWT-exempt status under **section RE 27**”.
- (2) In section RE 4, in the list of defined terms,—
 - (a) insert “RWT-exempt status”: 25
 - (b) delete “RWT exemption certificate”.

155 Section RE 5 amended (No withholding obligation in certain circumstances)

- (1) In section RE 5(2), replace “holds an RWT exemption certificate issued” with “has RWT-exempt status”. 30
- (2) After section RE 5(2), insert:

No obligation in relation to non-cash dividends
- (2B) Section RE 4 does not apply in relation to a dividend referred to in **section RE 14B14C**.
- (3) In section RE 5, in the list of defined terms, insert “dividend”. 35
- (4) In section RE 5, in the list of defined terms,—

- (a) insert “RWT-exempt status”:
 - (b) delete “RWT exemption certificate”.
- (5) **Subsection (2)** applies for the 2017–18 and later income years.
- 156 Section RE 7 amended (When resident passive income paid to trustees)**
- (1) In section RE 7(1)(c)(i), replace “does not hold an RWT exemption certificate” with “does not have RWT-exempt status under **section RE 27**”. 5
 - (2) In section RE 7, in the list of defined terms,—
 - (a) insert “RWT-exempt status”:
 - (b) delete “RWT exemption certificate”.
- 157 Section RE 8 amended (When resident passive income paid to nominees)** 10
- (1) In section RE 8(1)(c)(i), replace “holds an RWT exemption certificate” with “has RWT-exempt status under **section RE 27**”.
 - (2) In section RE 8, in the list of defined terms,—
 - (a) insert “RWT-exempt status”:
 - (b) delete “RWT exemption certificate”. 15
- 158 Section RE 10 amended (Special rule relating to payments of interest)**
- (1) Replace section RE 10(1)(b) and (c) with:
 - (b) either does not have RWT-exempt status under **section RE 27** at the time of the payment or is a person described in section 32E(2)(k) or (l) of the Tax Administration Act 1994 or is a person with RWT-exempt status under **section 32I** of that Act; and 20
 - (c) has paid an amount of resident passive income consisting of interest that is equal to or less than \$5,000 in the tax year before the tax year in which the payment is made; and
 - (1B) After section RE 10(2), insert: 25
 - Interest payments made in relation to taxable activities*
 - (3) For the purposes of subsection (2), and despite section RE 4(3)(b), a person who pays an amount of resident passive income consisting of interest in relation to the carrying on of a taxable activity in a tax year is required to withhold RWT for the resident passive income only if the amount that relates to the taxable activity is more than \$5,000 for the tax year. This subsection does not apply in relation to a person referred to in **subsection (1)(b)** other than a person who does not have RWT-exempt status. 30
 - (2) In section RE 10, in the list of defined terms,—
 - (a) insert “RWT-exempt status” and “taxable activity”: 35
 - (b) delete “RWT exemption certificate”.

- 159 Section RE 14 amended (Non-cash dividends other than certain share issues)**
- (1) After section RE 14(1)(b), insert:
(c) a dividend referred to in **section RE 14B14C**.
- (2) **Subsection (1)** applies for the 2017–18 and later income years. 5
- 160 New section RE 14B14C inserted (Non-cash dividends distributed through intermediaries)**
- (1) After section RE 14B, insert:
- RE 14B14C Non-cash dividends distributed through intermediaries**
- Sections RE 5 and RE 14** do not apply in relation to a non-cash dividend when— 10
- (a) a company or trustee of a trust—
- (i) derives the dividend from a foreign company; and
- (ii) distributes the dividend to a shareholder in the company or to a beneficiary of the trust, as applicable, who is in either case a natural person; and 15
- (iii) acts as an intermediary in relation to the distribution of the dividend; and
- (b) the distribution is made in the same income year in which the dividend is derived. 20
- Defined in this Act: company, foreign company, income year, non-cash dividend, shareholder, trustee
- (2) **Subsection (1)** applies for the 2017–18 and later income years.
- 161 Cross-heading and section RE 27 amended**
- (1) Replace the cross-heading before section RE 27 with “*Persons with RWT-exempt status*”. 25
- (2) In section RE 27, replace the section heading with “**RWT-exempt status**”.
- (3) Replace section RE 27(1), other than the heading, with:
- (1) A person may apply to the Commissioner for RWT-exempt status if they are a person listed in section 32E(2) of the Tax Administration Act 1994.
- (4) Replace section RE 27(2) with: 30
- When status ends*
- (2) A person ceases to have RWT-exempt status if—
- (a) they no longer meet the requirements in **subsection (1)**; or
- (b) the Commissioner revokes the status under **section 32L** of the Tax Administration Act 1994. 35

- (5) In section RE 27(3), replace “the holder of an RWT exemption certificate” with “a person who has RWT-exempt status”.
- (6) After section RE 27(3), insert:
- Notifying investment providers*
- (4) A person who has RWT-exempt status must notify their investment provider of their status and of a change in their status. For a list of investment providers, see **section 25E(1)** of the Tax Administration Act 1994. 5
- (7) In section RE 27, in the list of defined terms,—
- (a) insert “RWT-exempt status”;
- (b) delete “RWT exemption certificate”. 10

162 Section RE 28 amended (When certificates expire)

- (1) In section RE 28, replace the section heading with “**When RWT-exempt status ends**”.
- (2) In section RE 28(1), replace “a person’s RWT exemption certification expires” with “a person’s RWT-exempt status ends”. 15
- (3) In section RE 28(2), replace “the certificate expired” with “the status ends”.
- (4) In section RE 28, in the list of defined terms,—
- (a) insert “RWT-exempt status”;
- (b) delete “RWT exemption certificate”.

163 Section RE 29 replaced (Establishing whether person holds certificate) 20

Replace section RE 29 with:

RE 29 Establishing whether persons have RWT-exempt status

- (1) This section applies for ~~For~~ the purposes of **section RE 5(2)**, ~~person A may establish by a search of the electronic register that the Commissioner provides on which persons with RWT-exempt status are listed that to set out the ways for person A to establish—~~ 25
- (a) whether person B is a person who has RWT-exempt status; and
- (b) that the status has not ended.
- (2) Person A may establish that—
- (a) they have made a search of the electronic register that the Commissioner provides on which the details of persons with RWT-exempt status are listed; or 30
- (b) they have taken reasonable steps to confirm that person B is a person listed in section 32E(2)(a) to (h) of the Tax Administration Act 1994; or
- (c) except in relation to a person listed in **section 32E(2)(k)** or (l) of that Act or to whom the Commissioner has provided RWT-exempt status 35

under **section 32I** of that Act, they have been given person B’s tax file number and have been notified that person B has RWT-exempt status.

Defined in this Act: Commissioner, notify_RWT-exempt status, tax file number

164 Section RE 30 amended (When unincorporated bodies hold certificates)

- (1) In section RE 30, in the section heading replace “**hold certificates**” with “**have RWT-exempt status**”. 5
- (2) In section RE 30(1)(a), replace “holds an RWT exemption certificate” with “has RWT-exempt status”.
- (3) In section RE 30, in the list of defined terms,—
 - (a) insert “RWT-exempt status”: 10
 - (b) delete “RWT exemption certificate”.

164B Section RF 2B amended (Non-resident financial arrangement income: outline and concepts)

In section RF 2B(1), replace “sections RF 2C, and” with “sections RF 2C and”.

165 Section RL 4 amended (How much RLWT?) 15

- (1) In section RL 4(8)(b), replace “NBDT, as defined in section 4 of the Non-bank Deposit Takers Act 2013” with “non-bank deposit taker”.
- (2) In section RL 4, in the list of defined terms, insert “licensed non-bank deposit taker”.

166 Section RM 8 amended (Overpaid RWT or NRWT) 20

- (1) Replace section RM 8(5)(c) with:
 - (c) they provide, in relation to the amount, a statement that they will not include particulars in their investment income information under **section 25F to 25H** and make disclosure under **section 25N** of the Tax Administration Act 1994. 25
- (2) In section RM 8, in the list of defined terms, insert “investment income information”.

166B Section RM 15 amended (Changes in credit balances)

After section RM 15(2), insert:

Credit balance increased: refund after debit under section OB 41 30

- (3) For a company that has a refundable tax credit for a tax year after a debit to the company’s imputation credit account arises under section OB 41 (ICA debit for loss of shareholder continuity), a credit balance for the tax year is increased by an amount equal to the lesser of—
 - (a) the debit under section OB 41: 35

(b) the amount by which the refundable tax credit exceeds the total credits to the company’s imputation credit account, for amounts satisfying the company’s income tax liability, during the period from the date of the debit to the date on which the credit balance is to be determined under sections RM 13 and RM 14.

5

167 Section RP 2 amended (PAYE intermediaries)

(1) In section RP 2(1),—

(a) delete “or 15G”:

(b) delete “or a listed PAYE intermediary”.

(2) In section RP 2(2), delete “or listed PAYE intermediary”.

10

(3) In section RP 2(3), replace “or a listed PAYE intermediary for an employer has the rights and obligations under the PAYE rules and ESCT rules of a PAYE intermediary or listed PAYE intermediary, as applicable,” with “for an employer has the rights and obligations under the PAYE rules and ESCT rules of a PAYE intermediary”.

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(4) In section RP 2, in the list of defined terms, delete “listed PAYE intermediary”.

168 Sections RP 3, RP 4, and RP 5 repealed

Repeal sections RP 3, RP 4, and RP 5.

168B Section RP 3 repealed (Requirements for listed PAYE intermediaries)

Repeal section RP 3.

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168C Section RP 4 amended (Payment of subsidies to certain PAYE intermediaries)

(1) In section RP 4(1), replace “to whom section RD 22(3) or (4) (PAYE income payment forms for amounts of tax paid to Commissioner) applies” with “to whom **subsection (1B)** applies”.

25

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

Requirements for employers

(1B) For the purposes of **subsection (1)**, the employer must have, for the preceding tax year, a total gross amount of tax of less than \$50,000 withheld under section RA 5(1)(a) and (c) (Tax obligations for employment-related taxes) for—

30

(a) PAYE income payments:

(b) employer’s superannuation cash contributions.

New employers

(1C) For the purposes of the threshold amount in **subsection (1B)**, an employer who is a new employer may estimate whether the total gross amount of tax for the tax year is likely to be less than the threshold amount.

35

	<i>Commissioner’s discretion</i>	
(1D)	Despite subsection (1B) , the Commissioner may regard the employer as continuing to meet the requirements of that subsection even though the total gross amount of tax exceeds the threshold amount if the excess relates to an amount that is not a recurring amount, for example, a redundancy payment or a payment on retirement.	5
(3)	In section RP 4, in the list of defined terms, insert “employer’s superannuation cash contribution”, “gross”, and “tax year”.	
168D	Sections RP 4 and RP 5 repealed	
	Repeal sections RP 4 and RP 5.	10
169	Section RP 8 replaced (Information required from employers)	
	Replace section RP 8 with:	
RP 8	Information for PAYE intermediaries	
	An employer must provide the information sought by a PAYE intermediary within the time agreed by the employer and intermediary.	15
	Defined in this Act: employer, PAYE intermediary	
170	Section RP 14 amended (Collection, payment, and information requirements)	
(1)	In section RP 14(ab), replace “section 24Q” with “ section 15X15ZB ”.	
(2)	Replace section RP 14(b) with:	20
	(b) provide the relevant employment income information to the Commissioner under subpart 3C of that Act in electronic form and by means of an electronic communication as prescribed by the Commissioner; and	
(3)	Repeal section RP 14(c).	
(4)	In section RP 14(d), replace “section 24 of the Tax Administration Act 1994” with “ section 22AA of that Act”.	25
(5)	In section RP 14, in the list of defined terms,—	
	(a) insert “employment income information”;	
	(b) delete “employer monthly schedule” and “PAYE income payment form”.	
170B	Section RZ 13 amended (Treatment of prepayments)	30
	In section RZ 13, in the list of defined terms, replace “approved issuer levy” with “approved issuer”.	
171	New section RZ 1314 inserted (Listed PAYE intermediaries: transitional provision)	
	After section RZ 1213, insert:	35

RZ 1314 Listed PAYE intermediaries: transitional provision

Despite the repeal of **sections RP 4 and RP 5, sections 15H, 15G, 15I, 15M, 185C, and 185D** of the Tax Administration Act 1994, and the Income Tax (Payroll Subsidy) Regulations 2006 (which relate to the payment of subsidies to certain PAYE intermediaries) by the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act **2017**, those provisions continue to apply in relation to the payment of an amount of a subsidy or a claim for a subsidy to which a listed PAYE intermediary becomes entitled before the date of the repeal.

Defined in this Act: amount, pay, PAYE intermediary

172 Section YA 1 amended (Definitions)

- (1) This section amends section YA 1.
- (2) In the definition of **asset**, insert after paragraph (b):
 - (c) is defined in **section HR 12(6)** (Non-exempt charities: treatment of tax exempt accumulations) for the purposes of that section
- (3) Insert, in appropriate alphabetical order:

ASX-listed Australian company is defined in **section ED 2B(7)** (Transfers to shareholders by ASX-listed Australian company of shares in subsidiary)
- (4) In the definition of **charitable purpose**, paragraph (b)(ii), replace “or not used for a purpose that is a charitable purpose other than under this paragraph” with “or are used for a purpose that is a charitable purpose”.
- (5) In the definition of **company**,—
 - (a) after paragraph (abb), insert:
 - (abc) does not include a company that is acting in the capacity of trustee:
 - (b) in paragraph (c), replace “includes a group investment fund” with “includes a trustee of a group investment fund”:
 - (c) after paragraph (j), insert:
 - (k) is defined in **section HD 15(9)** (Asset stripping of companies) for the purposes of that section:
- (6) In the definition of **company dividend statement**, replace “section 67” with “**section 25G(2)**”.
- (7) Repeal the definition of **conduct**.
- (7B) In the definition of **continuity provisions**, after paragraph (b), insert:
 - (bb) Section HA 6 (Corporate requirements); and
- (7C) In the definition of **controlled petroleum mining holding company**, replace paragraph (b)(i) with:
 - (i) shares in petroleum miners that are companies:
- (8) Insert, in appropriate alphabetical order:

- decommissioning**, for a petroleum miner or farm-in party, means—
- (a) ~~dismantling, demolishing, or removing equipment or structures used in petroleum mining operations~~ petroleum mining assets other than those referred to in section CT 6B(2)(a) (Meaning of petroleum mining operations): 5
 - (b) plugging and abandoning the following wells on a site, or former site, of petroleum mining operations—
 - (i) a well (a **commercial well**), including any associated processing facility connected to the well, used for the commercial production of petroleum: 10
 - (ii) ~~an exploratory well that has been plugged and abandoned in a permit area as part of an arrangement that includes the plugging and abandoning of a well described in **subparagraph (i)** in an area that is geologically contiguous to the permit area~~ together with a commercial well geologically contiguous with the exploratory well as part of an arrangement between the petroleum miner or farm-in party and another person who plugs and abandons wells in the permit area: 15
 - (iii) a well used for water injection, water disposal, gas reinjection, or gas disposal in the commercial production of petroleum: 20
 - (c) restoring a site, or former site, of petroleum mining operations other than a part of the site that has been used only for an activity referred to in section CT 6B(2)(a):
 - ~~(d) the ongoing monitoring of a commercial well or exploratory well referred to in **paragraph (b)** that has been plugged and abandoned~~ 25
 - (d) the ongoing monitoring of—
 - (i) a commercial well, exploratory well, or other well referred to in **paragraph (b)** that has been plugged and abandoned:
 - (ii) a site or former site referred to in **paragraph (c)** that has been restored: 30
 - (e) planning and managing an activity referred to in **paragraphs (a) to (d)**
- (8B) Insert, in appropriate alphabetical order:
- detached tax credit** is defined in **section LB 3(8)** (Tax credits for resident withholding tax) for the purposes of that section and **sections HC 6 and RE 2** (which relate to RWT substitution payments) 35
- (9) In the definition of **dispose**, repeal paragraph (d).
 - (10) In the definition of **distinctive work clothing**, replace “clothing) and section CW 17CC (Payment for distinctive work clothing)” with “clothing”.
 - (11) In the definition of **dwelling**,—
 - (a) in paragraph (a), replace “place; but” with “place:” 40

- (b) in paragraph (b)(vi), replace “ground” with “ground:”.
- (11B) In the definition of **employee**,—
- (a) in paragraph (ab), delete “who has chosen under section RD 3(3) to treat amounts paid to them in the income year in their capacity as employee as income other than from a PAYE income payment”: 5
- (b) in paragraph (b), replace “section RD 3(2) to (4) (PAYE income payments)” with “section RD 3B or RD 3C (which relate to income other than PAYE)”:
- (12) In the definition of **employee**, replace paragraph (d) with:
- (d) is defined in **section CW 26D** (Meaning of employee) for the purposes of **section CW 26C** (Meaning of share purchase scheme exempt ESS) 10
- (13) Insert, in appropriate alphabetical order:
- employee share scheme** is defined in **section CE 7** (Meaning of employee share scheme)
- employee share scheme beneficiary** is defined in **section CE 7C** (Meaning of employee share scheme beneficiary) 15
- (14) Repeal the definition of **employer monthly schedule**.
- (15) Insert, in the appropriate alphabetical order:
- employer’s workplace** is defined in **section CW 17CB(7B)** (Payments for certain work-related meals) for the purposes of that section 20
- (16) Repeal the definition of **employing company**.
- (16B) Replace the definition of **employment income** with:
- employment income** means an amount that is income under section CE 1 (Amounts derived in connection with employment), and includes—
- (a) salary or wages to which section RD 3B or RD 3C (which relate to income other than PAYE) applies: 25
- (b) income, other than from a PAYE income payment, to which section RD 3B or RD 3C applies
- (17) Insert, in the appropriate alphabetical order:
- employment income information** is defined in **section 23C** of the Tax Administration Act 1994 30
- (18) Replace the definition of **end date** with:
- end date**—
- (a) is defined in **section HR 12(7)** (Non-exempt charities: treatment of tax-exempt accumulations) for the purposes of that section: 35
- (b) is defined in section RA 15(3) (Payment dates for interim and other tax payments) for the purposes of that section
- (19) Insert, in the appropriate alphabetical order:

- ESS deferral date** is defined in **section CE 2(9)** (Benefits under employee share schemes) for the purposes of that section and **sections RD 6 and RD 7B** (which relate to amounts of tax for benefits under employee share schemes)
- (20) Repeal the definition of **established activity**. 5
- (20B) Insert, in appropriate alphabetical order:
exempt ESS is defined in **section CW 26C** (Meaning of exempt ESS)
- (21) In the definition of **exempt interest**, in paragraph (c), delete “or CW 64 (Exemption under other Acts)”.
- (22) Repeal the definition of **exemption certificate**. 10
- (23) Repeal the definition of **existing farmer**.
- (24) Insert, in appropriate alphabetical order:
farm-in party, in relation to petroleum miner, means the person referred to in the definition of farm-out arrangement who has an arrangement as described in that definition with the petroleum miner 15
- (25) Replace the definition of **formation loss** with:
formation loss, for a PIE,—
- (a) means an amount of tax loss or a loss balance arising from a period before the entity became a PIE as described in sections HM 66 to HM 70 (which relate to the treatment of formation losses); and 20
- (b) includes a loss balance of a multi-rate PIE when the loss balance is carried forward under section HM 44(3) (Provisional tax calculation option) because the PIE—
- (i) has chosen for an income year to calculate its income tax liability using the provisional tax calculation option under section HM 44; and 25
- (ii) for the next corresponding tax year, chooses to use either the exit calculation option under section HM 42 (Exit calculation option) or the quarterly calculation option under section HM 43 (Quarterly calculation option) to calculate its income tax liability 30
- (25B) In the definition of **fully imputed**, in paragraph (a), replace “RF 8, RF 10” with “RF 8, and RF 10”.
- (26) In the definition of **goods**, replace “and of **services**” with “and **services**”.
- (26B) In the definition of **grandparented charity**, replace “a charity” with “a tax charity”. 35
- (27) In the definition of **high-priced livestock**, in paragraph (a), replace “for a acquisition price” with “for an acquisition price”.
- (27B) Replace the definition of **income from employment**, paragraph (c) with:
(c) in sections DA 2(4) and DE 1, includes—

- (i) salary or wages to which section RD 3B or RD 3C (which relate to income other than PAYE) applies:
- (ii) income, other than from a PAYE income payment, to which section RD 3B or RD 3C applies
- (28) Repeal the definition of **income from personal exertion**. 5
- (29) In the definition of **land**, repeal paragraph (e).
- (30) Replace the definition of **liabilities** with:
- liabilities—**
- (a) is defined in section EZ 68 (Definitions) for the purposes of sections EZ 64 to EZ 67 (which relate to New Zealand Railways Corporation re-structure) 10
- (b) is defined in **section HR 12(6)** (Non-exempt charities: treatment of tax-exempt accumulations) for the purposes of that section
- (31) Insert, in appropriate alphabetical order:
- licensed non-bank deposit taker** means a licensed NBDT as defined in section 4 of the Non-bank Deposit Takers Act 2013 15
- (32) Repeal the definition of **listed PAYE intermediary**.
- (33) Insert, in appropriate alphabetical order:
- Lloyd’s of London** means a person who is a Lloyd’s underwriter who carries on insurance business referred to in section 200 of the Insurance (Prudential Supervision) Act 2010 under a licence issued to Lloyd’s under section 205 of that Act 20
- (33B) In the definition of **look-through company**, replace paragraph (eb) with:
- (eb) for which an owner that is a trustee of a trust does not make a distribution to a company that is directly or indirectly a beneficiary of the trust, unless the company is— 25
- (i) a grandparented Maori authority for the entity:
- (ii) a tax charity that has no control or influence in relation to the operation of the entity and no control or influence in relation to the distributions of the trust; and 30
- (34) In the definition of **member**, paragraph (d), replace “When unincorporated bodies hold certificates” with “When unincorporated bodies have RWT-exempt status”.
- (35) Replace the definition of **natural person** with:
- natural person—** 35
- (a) does not include a natural person who is acting in the capacity of trustee:
- (b) is further defined in section FE 4 (Some definitions) for the purposes of subpart FE (Interest apportionment on thin capitalisation)

- (36) In the definition of **net assets**, replace “charities: taxation” with “charities: treatment”.
- (37) Replace the definition of **normal retiring age** with:
normal retiring age is defined in **section CW 26E** (Meaning of normal retiring age) for the purposes of **section CW 26C** (Meaning of share purchase scheme exempt ESS) 5
- (38) In the definition of **offered or was offered or entered into**, replace “in sections EY 12 (Meaning of life reinsurance) and EY 48 (Non-resident life insurers with life insurance policies in New Zealand)” with “in **sections CR 3B**, EY 12, EY 48, and **YD 8B** (which relate to life insurance and life reinsurance)” 10
- (38B) In the definition of **offshore RLWT person**, paragraph (c), in the words before the subparagraphs, replace “a person” with “a person, other than a statutory trustee company”.
- (39) In the definition of **pay**, in paragraph (bb), replace “section 24Q” with “**section 15X15ZB**” 15
- (40) Insert, in the appropriate alphabetical order:
payday has the meaning given in section 3(1) of the Tax Administration Act 1994
- (41) Repeal the definitions of **PAYE income payment form** and **PAYE income payment form period**. 20
- (42) In the definition of **PAYE intermediary**, in paragraph (a)(i), delete “or 15G”.
- (43) Repeal the definition of **period of restriction**.
- (44) In the definition of **petroleum development expenditure**, after paragraph (b)(ii), insert: 25
 (iii) expenditure that relates to an amount for which a deduction is allowed under **section DT 7B** (Resuming commercial production: petroleum development expenditure), except as provided in that section
- (45) Repeal the definition of **petroleum mining company**. 30
- (46) In the definition of **profit distribution plan**, in paragraph (b), replace “share purchase agreement” with “employee share scheme”.
- (47) Replace the definition of **refundable tax credit** with:
refundable tax credit means a tax credit under a provision that is listed in section LA 6(1)(a) to (j) (Remaining refundable credits: PAYE, RWT, and certain other items) 35
- (48) Repeal the definition of **related activity**.
- (49) Repeal the definition of **removal or restoration operations**.
- (50) Insert, in appropriate alphabetical order:

- replacement employee share scheme** is defined in **section CE 7D** (Meaning of replacement employee share scheme)
- (51) Insert, in the appropriate alphabetical order:
RWT-exempt status means the status of an eligible person under **section RE 27** (RWT-exempt status) relating to the treatment of resident passive income derived by the person 5
- (52) Repeal the definition of **RWT exemption certificate**.
- (53) In the definition of **RWT withholding certificate**, replace “section 25” with “**section 26C**”.
- (54) In the definition of **savings product policy**, paragraph (b), replace “payback of a” with “payback of”. 10
- (55) In the definition of **schedular income**, after paragraph (i), insert:
 (j) income under **section CR 3B** (Lloyd’s of London: income from life insurance premiums)
- (55B) Repeal paragraph (b) of the definition of **self-remission**. 15
- (56) In the definitions of **settlement of relationship property**, delete the second and third versions of the definition and retain only the definition that contains the reference to section FB 1B(a).
- (57) In the definition of **share**, repeal paragraph (f).
- (58) In the definition of **share**, replace paragraph (g) with: 20
 (g) is further defined in **section CW 26F** (Meaning of share) for the purposes of **section CW 26C** (Meaning of ~~share purchase scheme~~exempt ESS)
- (59) Repeal the definition of **share purchase agreement**.
- (60) ~~Replace~~Repeal the definition of **share purchase scheme**, with: 25
share purchase scheme is defined in **section CW 26C** (Meaning of ~~share purchase scheme~~)
- (61) Insert, in appropriate alphabetical order:
share scheme taxing date is defined in **section CE 7B** (Meaning of share scheme taxing date) 30
- (61B) In the definition of **shareholder-employee**, paragraph (a), replace “salary, wages, or other income to which section RD 3(2) to (4) (PAYE income payments) applies” with “—”, and insert:
 (i) salary or wages to which section RD 3B or RD 3C (which relate to income other than PAYE) applies: 35
 (ii) income, other than from a PAYE income payment, to which section RD 3B or RD 3C applies
- (62) Replace the definition of **shareholder-employee** with:

- shareholder-employee** means a person who receives or is entitled to receive salary, wages, or other income to which section RD 3B(2) or RD 3C(3) (which relate to income other than PAYE) apply—
- (a) salary or wages to which section RD 3B or RD 3C (which relate to income other than PAYE) applies: 5
- (b) income, other than from a PAYE income payment, to which section RD 3B or RD 3C applies
- (63) Repeal the definitions of **specified activity**, **specified activity net income**, and **specified activity net loss**.
- (63B) In the definition of **statutory trustee company** replace “is defined in” with “means a trustee company defined in”. 10
- (64) Repeal the definition of **subsidy claim form**.
- (65) In the definition of **tax file number**, replace paragraph (b) with:
- (b) specifically for the purposes of RWT-exempt status under **section RE 27** (RWT-exempt status) 15
- (65B) In the definition of **tax situation**, replace “sections HZ 4B and HZ 4D (which relate to the transition of a qualifying company into a partnership or sole tradership)” with “sections HZ 4B, HZ 4D, and HZ 4E (which relate to the transitional provisions for look-through companies)”.
- (66) In the definition of **time bar**, replace “sections 108 and 108B” with “sections 108, 108A, and 108B”. 20
- (67) In the definition of **trustee**, replace paragraph (f) with:
- (f) is defined in **section CW 26G** (Meaning of trustee) for the purposes of **section CW 26C** (Meaning of ~~share purchase scheme~~ exempt ESS) 25
- (68) Insert, in appropriate alphabetical order:
- unused specified activity net loss** is the amount of specified activity net loss, under section IZ 1 as that section was immediately before its repeal by **section 100** of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act **2017**, that—
- (a) existed at the close of the 2017–18 income year; and 30
- (b) had not been included in the tax loss for the 2017–18 tax year or for an earlier tax year:
- (69) **Subsections (31), (33), (38), and (55)** apply for a life insurance premium that is derived on or after 1 April 2017 by Lloyd’s of London.
- (69B) **Subsection (7B)** applies for the 2017–18 and later income years. 35
- (70) **Subsections (7), (8), (20), (23), (24), (28), (29), (44), (45), (47), (48), (49), (63), and (68)** apply for the 2018–19 and later income years.

173 New section YA 5 inserted (General rule: capacity of trustees)

After section YA 4, insert:

YA 5 General rule: capacity of trustees

Trustees acting in separate capacity

- (1) A person who is acting as a trustee of a trust is acting in a capacity that is separate from their other capacities. 5

Other capacities

- (2) The other capacities of the person referred to in **subsection (1)** may include— 10
- (a) their personal capacity: 10
 - (b) their capacity as a body corporate that is a legal person:
 - (c) their capacity as a trustee of another trust or as an agent.

Defined in this Act: agent, trustee

174 Section YC 4 amended (Look-through rule for corporate shareholders)

- (1) In section YC 4(1), replace “is or is treated as having” with “has or is treated as having”. 15
- (2) **Subsection (1)** applies for the 2008–09 and later income years.

175 Section YD 1 amended (Residence of natural persons)

- (1) In section YD 1(1), replace “person who is not a company” with “natural person”. 20
- (2) In section YD 1(2), replace “person” with “natural person”.
- (3) In section YD 1(3), replace “person” with “natural person”.
- (4) In section YD 1(4), replace “person” with “natural person” in each place where it appears.
- (5) In section YD 1(5), replace “person” with “natural person”. 25
- (6) In section YD 1(6), replace “person” with “natural person”.
- (7) In section YD 1(7), replace “person” with “natural person”.
- (8) In section YD 1(8), replace “person” with “natural person”.
- (9) After section YD 1(11), insert:

Treatment of trustees 30

- (12) In this section, a natural person includes a natural person who is acting in the capacity of trustee.

- (10) In section YD 1, in the list of defined terms,— 35
- (a) insert “natural person” and “trustee”:
 - (b) delete “company”.

176	Section YD 2 amended (Residence of companies)	
(1)	After section YD 2(1), insert:	
	<i>Treatment of trustees</i>	
(1B)	In this section, a company includes a company that is acting in the capacity of trustee.	5
(2)	In section YD 2, in the list of defined terms, insert “trustee”.	
177	Section YD 4 amended (Classes of income treated as having New Zealand source)	
	In section YD 4, in the compare note, replace “ss FB 2(2)” with “s FB 2(2)”.	
178	Section YD 6 amended (Apportionment of income from sea transport)	10
(1)	In section YD 6(3)(b), replace “exempt from income tax” with “exempt from, or not liable to, income tax”.	
(2)	Subsection (1) applies for the 2008–09 and later income years.	
179	New section YD 8B inserted (Apportionment of life insurance premiums derived by Lloyd’s of London)	15
(1)	After section YD 8, insert:	
	YD 8B Apportionment of life insurance premiums derived by Lloyd’s of London	
	<i>What this section applies to</i>	
(1)	This section applies when—	
(a)	a premium is paid under a life insurance policy; and	20
(b)	the premium is derived by Lloyd’s of London; and	
(c)	the life insurance policy is described in subsection (4) ; and	
(d)	the life insurance policy is offered or was offered or entered into within New Zealand.	
	<i>Ten percent of premium from source in New Zealand</i>	25
(2)	Ten percent of the gross premium is treated as having a source in New Zealand and the remainder of the gross premium is treated as not having a source in New Zealand.	
	<i>Special rules</i>	
(3)	The following provisions apply in relation to taxation of the 10% amount:	30
(a)	Lloyd’s of London is denied a deduction for expenditure or loss incurred, under section DW 3B (Lloyd’s of London: deductions for life insurance business):	
(b)	sections HD 3 (Agents’ duties and liabilities), HD 17B (Lloyd’s of London: agents for life insurance), and section HR 13 (Lloyd’s of London:	35

	life insurance) impose certain obligations to provide a return of income and pay income tax on the income.	
	<i>Types of life insurance policies</i>	
(4)	The life insurance policy referred to in subsection (1) is a life insurance policy that—	5
	(a) is made available to the general public; and	
	(b) is not a profit participation policy or a savings product policy or both; and	
	(c) does not provide for a benefit that is an annuity.	
	Defined in this Act: deduction, income, income tax, life insurance policy, Lloyd’s of London, offered or was offered or entered into, pay, premium, profit participation policy, return of income, savings product policy, source in New Zealand	10
(2)	Subsection (1) applies in relation to a life insurance premium that is derived on or after 1 April 2017 by Lloyd’s of London.	
180	Schedule 1 amended (Basic tax rates: income tax, ESCT, RSCT, RWT, and attributed fringe benefits)	15
(1)	In schedule 1, part A, after clause 10, insert:	
11	Schedular taxable income: life insurance premiums derived by Lloyd’s of London	
	The basic rate of income tax for a person on each dollar of the person’s schedular taxable income that is income under section CR 3B (Lloyd’s of London: income from life insurance premiums) is 0.28.	20
(2)	In schedule 1, part D,—	
	(a) in clause 3, table 1 2 , rows 2 to 8, replace “section 25A” with “ section 26B ” in each place where it appears:	25
	(b) in clause 3, table 2, row 1, replace “0.330” with “0.450”:	
	(c) in clause 4, table 3, row 4, replace “0.33” with “0.45”.	
(3)	Subsection (1) applies in relation to a life insurance premium that is derived on or after 1 April 2017 by Lloyd’s of London.	
181	Schedule 2 amended (Basic tax rates for PAYE income payments)	30
(1)	In schedule 2, in the shoulder references, delete “RD 14,”.	
(2)	In schedule 2, part A, clause 2, replace “under section 24B(3)” with “referred to in schedule 5, part A, clause 4, row 1-or-2 ”.	
(3)	In schedule 2, part A, clause 3, replace “section 24B(3)” with “section 24B(3B) ”.	35
(4)	Replace schedule 2, part A, clause 3 with:	

3 Non-notified tax code

If an employee’s tax code is a non-notified tax code under **section 24E** of the Tax Administration Act 1994, the basic tax rate amount for a payment of salary or wages is set by applying the rate of 0.45 for each dollar of the payment.

- (5) In schedule 2, clauses 4 to 8, replace “section 24B(3)” with “**section 24C**” in each place where it appears. 5
- (6) In schedule 2, clause 7, replace “casual agricultural worker” with “casual agricultural employee”.
- (7) In schedule 2, clause 9, replace “section 24B(3)(bb)” with “**section 24C**”.
- (8) In schedule 2, part B, table 1, insert in correct numerical order: 10

Row	Condition	Tax rate
1B	Section RD 10(2C) applies.	0.105
5	Section RD 10(2D) applies.	0.450

181B Schedule 6 amended (Prescribed rates: PIE investments and retirement scheme contributions)

- (1) In schedule 6, table 1B, row 9, replace “amount of interest referred to in row 4” with “amount of interest referred to in row 6”.
- (2) **Subsection (1)** applies for the 2012–13 and later income years. 15

182 Schedule 25 amended (Foreign investment funds)

In schedule 25, in the shoulder references, after “DN 6,” insert “**ED 2B**,”.

183 Schedule 32 amended (Recipients of charitable or other public benefit gifts)

- (1) In schedule 32, insert, in appropriate alphabetical order, “Byond Disaster Relief New Zealand”, “Flying for Life Charitable Trust”, “Médecins Sans Frontières New Zealand Charitable Trust”, “Tony McClean Nepal Trust”, and “Zimbabwe Rural Schools Library Trust”. 20
- (1B) In schedule 32, replace “The World Swim for Malaria Foundation (New Zealand)” with “Against Malaria Foundation (New Zealand)”. 25
- (1C) In schedule 32, replace “Destiny Rescue Charitable Aid Trust” with “Child Rescue Charitable Trust”.
- (2) **Subsection (1)** applies for the 2017–18 and later income years.

184 Schedule 36 amended (Government enterprises)

In schedule 36, part A, insert, in appropriate alphabetical order, “Animal Control Products Limited” and “Kordia Group Limited”. 30

185 Consequential amendments to Income Tax Act 2007 related to trustee capacity

The Income Tax Act 2007 is amended as set out in **schedule 1**.

185B Consequential amendments to other enactments related to tax administration

5

The enactments referred to in **schedule 1B** are amended as set out in the schedule.

Part 3

Amendments to Tax Administration Act 1994

186 Tax Administration Act 1994

10

Part 3 amends the Tax Administration Act 1994.

187 Section 3 amended (Interpretation)

(1) This section amends section 3(1).

(1B) Insert, in appropriate alphabetical order:

contact address in schedule 3, tables 1 and 2, schedule 4, tables 2 and 3, and schedule 6, table 1, has the meaning given in section 14G

15

(2) Repeal the definition of **dividend treated as interest**.

(3) In the definition of **employee**, replace “section 46(7)” with “**section 23K(6)**”.

(4) Insert, in appropriate alphabetical order:

employment income information is defined in **section 23C** for the purposes of **subpart 3C, sections 15L, 23, 36, 47, 80D, 139A, 139AA(4), 141AA, 141ED, 142, 142G, and 227C, and schedules 3 and 4**

20

(5) Insert, in appropriate alphabetical order:

ESS deferral date has the meaning given by **section CE 2(9)** of the Income Tax Act 2007

25

(6) In the definition of **exempt person**, replace “section 27(1)” with “section 27(2)”.

(7) Repeal the definition of **exempt person**.

(8) In the definition of **gift-exempt body**, replace paragraph (b) with:

(b) any other person who has RWT-exempt status following an application made under section 32E(2)(k) or (l) in relation to a tax year in which they have that status

30

(9) Insert, in appropriate alphabetical order:

- investment income** is defined in **section 25C** for the purposes of **subpart 3E, sections 32H, 142G, and 227E, and schedule 6, and sections RA 12, and RM 8** of the Income Tax Act 2007
- investment income information** is defined in **section 25D** for the purposes of **subpart 3E, sections 32H, 57, 57B, 139AA, 142G, and 227E, schedule 6, and sections RA 11, RA 12, and RM 8 RA 15** of the Income Tax Act 2007
- (10) Insert, in appropriate alphabetical order:
- natural person**—
- (a) does not include a natural person who is acting in the capacity of trustee:
- (b) for the purposes of sections 177 and 177A, includes a natural person who is acting in the capacity of trustee
- (11) Repeal the definition of **non-exempt person**.
- (12) Insert, in appropriate alphabetical order:
- payday** in **subpart 3C and schedule 4**, means the day on which an employer makes a PAYE income payment to an employee
- (13) In the definition of **payment**, replace “in sections 67 and 120U” with “in section 120U, and for the purposes of **section 25G(2) and schedule 6, table 1 row 18**”.
- (14) Insert, in appropriate alphabetical order:
- payroll software** is defined in **section 230** for the purposes of that section and **section 23F**
- (15) Repeal the definition of **reconciliation statement**.
- (16) In the definition of **record**, paragraph (b), replace “section 26” with “**section 22AAB**”.
- (17) In the definition of **record holder**, delete “and section 26”.
- (18) Replace the definition of **registered person** with:
- registered person** has the meaning given by section 2(1) of the Goods and Services Tax Act 1985
- (19) In the definition of **responsible department**, in paragraph (b), replace “sections 24F and 24IB” with “**section 24D**”.
- (20) Repeal the definition of **RWT exemption certificate**.
- (21) Repeal the definitions of **special tax code certificate** and **special tax code notification**.
- (21B) Insert, in appropriate alphabetical order:
- START tax type** means—
- (a) **GST**:
- (b) **FBT**:

<p>(c) <u>RWT:</u></p> <p>(d) <u>NRWT:</u></p> <p>(e) <u>approved issuer levy:</u></p> <p>(f) <u>RLWT:</u></p> <p>(g) <u>gaming-machine duty:</u></p> <p>(h) <u>income tax liability of portfolio investment entities to which section HM 42 or HM 43 of the Income Tax Act 2007 applies</u></p>	<p>5</p>
<p>(22) In the definition of tax, repeal paragraph (a)(xiii).</p>	
<p>(23) Insert, in appropriate alphabetical order:</p> <p>tax code is defined in section 24B(1)</p>	<p>10</p>
<p>(24) Repeal the definitions of tax code certificate and tax code notification.</p>	
<p>(25) In the definition of tax position, repeal paragraph (o).</p>	
<p>(26) Replace the definition of tax shortfall with:</p> <p>tax shortfall, for a return period, means—</p> <p>(a) the difference between the tax effect of a taxpayer’s tax position for the return period and the correct tax position for that period, when the taxpayer’s tax position—</p> <p style="padding-left: 20px;">(i) results in too little tax paid or payable by the taxpayer or another person:</p> <p style="padding-left: 20px;">(ii) overstates a tax benefit, credit, or advantage of any type or description for<u>by or benefiting</u> the taxpayer or another person; but</p> <p>(b) for a person that has taken a tax position for section 46(6B) (the tax position) and has not made an election under section RD 7B of the Income Tax Act 2007, the amount of tax that they would have been liable to pay, if they had made an election under section RD 7B of that Act for the period, for the difference between the tax position and the correct tax position.</p>	<p>15</p> <p>20</p> <p>25</p>
<p>187B Section 14G amended (Contact addresses)</p> <p>In section 14G, insert as subsection (2):</p> <p>(2) <u>For the purposes of the delivery of income information, a person’s contact address is the address described in subsection (1)(a) to (c) with which they conduct correspondence, or intend to conduct correspondence, with the Commissioner.</u></p>	<p>30</p>
<p>188 Section 15C amended (PAYE intermediaries and listed PAYE intermediaries)</p> <p>(1) In section 15C, replace the section heading with “PAYE intermediaries”.</p>	<p>35</p>

- (2) Repeal section 15C(2).
- 189 Section 15F amended (Fitness of applicants)**
In section 15F(2), replace “; or” with “; and” in each place where it appears.
- 190 Sections 15G, 15H, and 15I repealed**
Repeal sections 15G, 15H, and 15I. 5
- 191 Section 15J amended (Employers’ arrangements with PAYE intermediaries)**
Repeal section 15J(4).
- 192 Section 15L amended (Amended monthly schedules)**
- (1) In section 15L, replace the section heading with “**Amended employment income information**”. 10
- (2) In section 15L, replace “make an amended monthly schedule relating to the employee and a pay period” with “provide the amended employment income information relating to the employee and a payday”.
- 193 Section 15M repealed (Subsidy claim forms)** 15
Repeal section 15M.
- 194 New subpart heading inserted (Commissioner’s powers to obtain information)**
Replace the cross-heading before section 16 with “Subpart 3A—Commissioner’s powers to obtain information”. 20
- 195 New subpart heading inserted (Taxpayers’ obligations to keep records)**
Replace the cross-heading before section 21B with “Subpart 3B—Taxpayers’ obligations to keep records”.
- 196 Section 22 amended (Keeping of business and other records)**
In section 22(2)(ke), replace “section 24Q” with “**section 15X15ZB**”. 25
- 197 New section 22AA inserted (Records to be kept by employers and PAYE intermediaries)**
After section 22, insert:
- 22AA Records to be kept by employers and PAYE intermediaries**
- (1) An employer who makes a PAYE income payment to an employee must keep proper records in English relating to the payment, the amount of tax withheld for the payment, and the other items of information set out in **schedule 3, table 1**, as required under this Act, the Child Support Act 1991, the KiwiSaver Act 2006, or the Student Loan Schemes Act 2011. 30

- (2) A person acting as a PAYE intermediary for an employer must keep proper records relating to their activity as a PAYE intermediary in relation to an employee of the employer.
- (3) An employer or PAYE intermediary must take reasonable steps to ensure the safe-keeping of their records for a period of not less than 7 years after the making of the payments to which the records relate, except to the extent to which—
 - (a) the Commissioner has notified the employer or PAYE intermediary that retention is not required; or
 - (b) the employer or PAYE intermediary ~~is required by this Act or the Income Tax Act 2007 to deliver~~ has delivered the records to the Commissioner as required by this Act or the Income Tax Act 2007.
- (4) On application by the person, the Commissioner may authorise the keeping of records under this section in a language other than English.

198 New section 22AAB inserted (Records to be kept by payers of passive income) 15

Before section 22A, insert:

22AAB Records to be kept by payers of passive income

- (1) This section applies when a person—
 - (a) is liable under the RWT rules to withhold RWT for resident passive income paid to or derived by another person: 20
 - (b) is liable under the NRWT rules to withhold NRWT for non-resident passive income paid to or derived by another person.
- (2) The person must keep proper records in English relating to the income paid by them, and RWT or NRWT withheld by them, or liable to be withheld by them, sufficient to enable the Commissioner to ascertain readily at any time the information set out in **schedule 3, table 2**. 25
- (3) A person referred to in **subsections (1) and (2)** must take reasonable steps to ensure the safe-keeping of their records for a period of not less than 7 years after the making of the payments to which the records relate, except to the extent to which— 30
 - (a) the Commissioner has notified the person that retention of the records is not required; or
 - (b) the records are required by law to be delivered to a person other than the Commissioner; or
 - (c) the person is a company that has been liquidated. 35
- (4) The Commissioner may, before the end of the 7-year period referred to in **subsection (3)**, notify the person that they are required to retain records specified by the Commissioner for a further period of up to 3 years after the end of the 7-year period if—

- (a) the affairs of the person are or have been under audit or investigation by the Commissioner; or
 - (b) the affairs of a person to whom the records relate are or have been under audit or investigation by the Commissioner; or
 - (c) the Commissioner intends to conduct, or is actively considering, an audit or investigation before the end of the extended retention period. 5
- (5) On application by the person, the Commissioner may authorise the keeping of records under this section in a language other than English.

199 Section 23 amended (Keeping of returns where information transmitted electronically) 10

Replace section 23(2) with:

- (2) This section does not require the retention of—
 - (a) a return for which the Commissioner has given notice that retention is not required; or
 - (b) a return of a company that has been liquidated; or 15
 - (c) employment income information that has been provided to the Commissioner.

200 New subpart 3C inserted (Employment income information)

After section 23, insert:

Subpart 3C—Employment income information 20

23B Employment income information: outline of provisions

- (1) **This subpart** sets out—
 - (a) what is meant by employment income information for reporting purposes;
 - (b) when employment income information must be provided to the Commissioner and how it must be delivered: 25
 - (c) the information that must be provided for new and departing employees;
 - (d) the rules for the correction of errors;
 - (e) ~~what employment records must be kept.~~
- (2) For the purposes of this subpart, an employer includes a PAYE intermediary, as the context requires. 30
- (3) For the provisions related to—
 - (a) the making of regulations, *see* section RA 21 of the Income Tax Act 2007;
 - (b) late filing penalties, *see* section 139A: 35
 - (c) non-electronic filing penalties, *see* section 139AA:

- (d) employers' withholding payment penalties, *see* section 141ED:
- (e) the application of the penalties provisions to PAYE intermediaries, *see* section 141JB:
- (f) the recovery of tax from employers or PAYE intermediaries, *see* sections 167 to 169.

5

23C Meaning of employment income information

(1) **Employment income information**, for the purposes of the Inland Revenue Acts, means the items of information that are listed in **schedule 4, tables 1 to 3**, as applicable, and that—

- (a) an employer to whom **section RD 22** of the Income Tax Act 2007 applies, must provide to the Commissioner under **sections 23E to 23H and 23J to 23L**; or
- (b) an employee to whom **section RD 4(4)** of that Act applies, must provide to the Commissioner under **section 23I**.

10

(2) The Commissioner must prescribe 1 or more electronic forms and 1 or more means of electronic communication ~~in~~by which employment income information must be delivered by an employer for the purposes of this subpart. ~~The requirements may relate to an employer or a class of employers, and is subject to the conditions specified by the Commissioner, whether generally or in a specific case.~~

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(3) ~~The requirements relating to a form or a means of communication may relate to an employer or a class of employers, and may be subject to the conditions specified by the Commissioner, whether generally or in a specific case.~~

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(4) ~~For the purposes of the delivery of employment income information, a requirement to deliver the information twice-monthly means that, in determining the date on which the information may be delivered, a payment or benefit is treated as being paid or received on a day in or, at the latest, by the last day of—~~

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- (a) ~~the first payment period in a month when the relevant day falls between the 1st and 15th days of the month; or~~
- (b) ~~the second payment period in a month when the relevant day falls between the 16th and last day of the month.~~

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23D Employers' groups for delivery of information

(1) For the delivery of employment income information to the Commissioner, an employer is included in 1 of the following groups of employer, according to the circumstances applying to the employer:

35

- (a) the online group; or
- (b) ~~the threshold~~non-electronic group, if they meet the requirements ~~in~~of **section 23F** or have an exemption under **section 23G**; or

<ul style="list-style-type: none"> (e) the electronic-exempt group, if they meet the requirements of section 23G; or (d) the new group, if they meet the requirements of section 23H. 	5
<ul style="list-style-type: none"> (2) For the delivery of employment income information, — a PAYE intermediary is included in the online group. (a) <u>a PAYE intermediary is included in the online group:</u> (b) <u>an employer who delivers employment income information electronically, whether through a service or platform provided by the Commissioner or through the use of payroll software, is included in the online group.</u> 	10
<ul style="list-style-type: none"> (3) Despite sections 23E to 23H and 23K, an employer may deliver their employment income information at any time before the dates set out in those sections. 	15
<ul style="list-style-type: none"> (4) Despite sections 23F to 23H, an employer in the threshold group, electronic-exempt group, or new group who is not required to deliver employment income information electronically may choose to deliver their employment income information in electronic form and by means of an electronic communication as prescribed by the Commissioner. 	20
<ul style="list-style-type: none"> (5) Despite subsections (1) and (2) and the means of delivery set out in sections 23E to 23H, an employer may ask the Commissioner for approval to deliver employment income information in another way. For this purpose, the Commissioner may— <ul style="list-style-type: none"> (a) give consent with terms and conditions: (b) vary the terms and conditions: (c) cancel the consent at any time. 	25
23E Online group of employers	30
<ul style="list-style-type: none"> (1) An employer is included in the online group if the employer is not included in— <ul style="list-style-type: none"> (a) the threshold<u>non-electronic</u> group; or (b) the electronic-exempt group; or (c) the new group. 	35
<ul style="list-style-type: none"> (2) An employer in the online group must deliver their employment income information for a payday— <ul style="list-style-type: none"> (a) in electronic form and by means of an electronic communication as prescribed by the Commissioner; and (b) within 2 working days after payday. 	35
23F ThresholdNon-electronic group of employers	
<ul style="list-style-type: none"> (1) An employer is included in the threshold<u>non-electronic</u> group if the employer— 	

- (a) meets either of the requirements set out in **subsection (3)** or has an exemption under **section 23G**; and
- (b) does not use payroll software to deliver their employment income information electronically, whether through a service or platform provided by the Commissioner or through the use of payroll software; and 5
- (c) is not included in the new group.—
- (i) the electronic-exempt group; or
- (ii) the new group.
- (2) An employer in the ~~threshold~~non-electronic group must deliver their employment income information for a payday— 10
- (a) in a format prescribed by the Commissioner; and
- (b) within 710 working days after payday.
- (2B) For the purposes of **subsection (2)(b)**, an employer in the non-electronic group may choose to treat the payday as—
- (a) the day on which the employer makes a PAYE income payment to an employee; or 15
- (b) 1 of the following, as applicable:
- (i) for an amount paid or benefit provided between the 1st and 15th days of a month, the 15th of the month; and
- (ii) for an amount paid or benefit provided between the 16th and last day of the month, the last day of the month. 20
- (2C) An employer who chooses to use, as a payday, a day referred to in **subsection (2B)(b)(i) or (ii)**, must deliver the employment income information set out in **schedule 4, table 1, rows 4 to 6** for each payment made or benefit provided in the relevant period. 25
- (3) The requirements are that, for a tax year and an amount of tax for a PAYE income payment and an employer’s superannuation cash contribution,—
- (a) an employer other than an employer referred to in **paragraph (b)**, must have gross amounts of tax payable for the preceding tax year that are below the threshold amount: 30
- (b) a new employer must have total accumulated amounts of tax that are below the threshold amount.
- (4) The threshold amount referred to in **subsection (3)** is—
- (a) \$50,000; or
- (b) the amount set by the Governor-General by Order in Council under **subsection (6)**. 35
- (5) If the accumulated amount referred to in **subsection (3)(b)** reaches the threshold amount during a tax year, the employer is included in the new group

- for the remaining months of the 6-month period referred to in **section 23H(2)** and, following that period, is included in the online group of employers.
- (6) The Governor-General may, on the recommendation of the Minister of Revenue, make an Order in Council setting or amending the threshold amount referred to in **subsection (4)(b)**. Before making the recommendation, the Minister must undertake consultation on the proposed amendment that is appropriate and reasonable for the purposes of this section. 5
- 23G Electronic-exempt Exemption for certain employers in online group group of employers**
- (1) An employer is included in the **electronic-exempt group** if— 10
- (a) the Commissioner exempts the employer from the online group requirements because the employer is unable to access digital services that are suitable for the purpose; and
- (b) the employer is not included in— 15
- (i) the threshold group; or
- (ii) the new group.
- (2) An employer in the electronic-exempt group must deliver their employment income information for a payday— 20
- (a) in a format prescribed by the Commissioner; and
- (b) within 7 working days after payday.
- (3) The Commissioner may exempt an employer in the online group from the online group requirements if it is reasonable in the circumstances, taking into account— In determining whether to exempt an employer under **subsection (1)(a)**, the Commissioner must have regard to— 25
- (a) the nature and availability of digital services to the employer, including the reliability of those services for the purposes of the employer; and
- (ab) the capability of the employer relating to the use of computers; and
- (b) the costs that the employer would incur in complying with the requirements if those costs would be unreasonable in the circumstances.
- (4) The Commissioner must provide a statement of reasons for the exemption. 30
- (5) Subject to **subsection (6)**, an exemption under this section remains valid until the Commissioner notifies the employer that the exemption is to be cancelled. The exemption expires on the date that is 6 months after that given in the Commissioner’s notice.
- (6) In making an exemption under this section, the Commissioner may set a time limit on the exemption, stating a start date and an end date, as applicable, for the exemption and the reason for setting the limit. 35
- (7) An exemption under this section is neither a legislative instrument nor a disallowable instrument for the purposes of the Legislation Act 2012 and does not

have to be presented to the House of Representatives under section 41 of that Act.

23H New group of employers

- (1) An employer is included in the **new group** if the employer ~~is~~becomes an employer ~~who starts employing employees in a tax year and is an employer who would, in the absence of this section, be included in the online group.~~ 5
- (2) The new-employer period is the 6-month period that starts on the date in the tax year on which the employer starts employing employees.
- (3) An employer in the new group may choose to deliver their employment income information for a payday in the new-employer period— 10
- (a) in a format prescribed by the Commissioner; and
 - (b) within 710 working days after payday.
- (3B) Despite **subsection (3)(b)**, if an employer in the new group meets the requirements of **section 23F(1)(a) and (b)**, they may choose to treat a payday in the way described in **section 23F(2B) and (2C)**. 15
- (4) If an employer in the new group chooses to ~~use payroll software to deliver their employment income information electronically, whether through a service or platform provided by the Commissioner or through the use of payroll software,~~ the employer is immediately included in the online group. ~~Similarly, after the end of the new-employer period, the employer is included in the online group.~~ 20

23I Employment income information requirements for employees

An employee who is required to provide employment income information relating to a PAYE income payment to the Commissioner under **section RD 21(1)(a)** of the Income Tax Act 2007, must deliver the information in the prescribed format within 710 working days after the end of the month in which the payment is made. 25

23IB Delivery of employment income information for certain special payments

- (1) This section applies for the purposes of **sections 23E to 23H** in relation to—
- (a) a schedular payment described in section RD 8 of the Income Tax Act 2007: 30
 - (b) a payment made to a person on a shadow payroll:
 - (c) a payment that an employer makes to an employee outside the regular payment cycle for the employee’s employment income.
- (2) For a schedular payment referred to in **subsection (1)(a)**, an employer may deliver their employment income information relating to the payment either— 35
- (a) on a payday basis under **sections 23E to 23H**, as applicable; or
 - (b) twice-monthly as described in **section 23C(4)**, treating the payday as the relevant day.

- (3) For a payment referred to in **subsection (1)(b)**, a non-resident employer has 20 days after an amount is paid to the person before the requirement to provide employment income information arises. The employer may—
- (a) treat the 20th day as the payday for the purposes of **sections 23E to 23H**, as applicable; or 5
- (b) provide their employment income information relating to the payment twice-monthly as described in **section 23C(4)**, treating the 20th day as the relevant day.
- (4) For an out-of-cycle payment referred to in **subsection (1)(c)**, an employer may deliver their employment income information relating to the payment either— 10
- (a) on a payday basis under **sections 23E to 23H**, as applicable; or
- (b) together with their information for the employer’s next regular reporting date for the delivery of information relating to the employee.
- (5) Despite **subsection (4)**, if the next regular reporting date referred to in **subsection (4)(b)** falls after the employer’s end date for the payment, as described in section RA 15(3)(a) and (b) of the Income Tax Act 2007, and would mean that, for reconciliation purposes, the information relating to the payment and the employee would appear to be reported as if the payment related to a later period, the employer must treat the payment as if it were made on a date that is not later than the end date. 15
20
- (6) For the purposes of **subsection (1)(b)**, a payment made to a person on a shadow payroll is a PAYE income payment paid by a non-resident employer to a person who undertakes employment services in New Zealand but who remains on the employer’s payroll system in a country or territory outside New Zealand. 25
- (7) **Section 23F(2B)(b) and (2C)** overrides this section.
- 23J Employment income information requirements relating to employee share schemes**
- (1) For the purposes of **sections 23E to 23H** and a benefit under an employee share scheme, the ESS deferral date is treated as the payday. The employer may— 30
- (a) treat the ESS deferral date as the payday; or
- (b) provide their employment income information twice-monthly as described in **section 23C(4)**, treating the ESS deferral date as the relevant day. 35
- (2) For reporting purposes,—
- (a) employment income information does not include information on—

(i)	a benefit under an employee share scheme received by a former employee if the employer has not chosen to withhold an amount of tax in relation to the benefit:	
(ii)	a benefit arising under a share purchase scheme <u>exempt ESS</u> :	
(b)	for a benefit that an employee receives under an employee share scheme, employment income information includes the value of the benefit, and if the employer has chosen under section RD 7B of the Income Tax Act 2007 to withhold an amount of tax for the benefit, the amount of tax withheld.	5
23K	Employment income information for new and departing employees	10
(1)	When an employee starts employment with an employer, the employer must provide the information referred to in schedule 4, table 2 to the Commissioner.	
(2)	When an employee’s employment ends, the employer must provide the information referred to in schedule 4, table 3 to the Commissioner.	15
(3)	The information referred to in subsection (1) about new employees must be delivered to the Commissioner by the date on which the employer is required to deliver employment information for the employee’s first payday or, if the employer chooses, at an earlier time.	
(4)	The information referred to in subsection (2) about departing employees must be delivered to the Commissioner by the date on which the employer is required to deliver employment income information for the payday on which the employee was last paid or, if the employer chooses, at an earlier time.	20
(5)	Despite subsections (1) to (4) , if information about the relevant employee is delivered to the Commissioner as part of electronic payday reporting that includes income information about the employee, the only additional information required from the employer is—	25
(a)	for a new employee, schedule 4, table 2, rows 5, 6, 7, and 10 :	
(b)	for a departing employee, schedule 4, table 3, row 5 .	
(6)	In this section, employee includes a person who receives or is entitled to receive a payment that would, but for section RD 3(2) to (4) <u>section RD 3B or RD 3C</u> of the Income Tax Act 2007, be a PAYE income payment.	30
23L	Employment income information when employment ended	
	An employer who stops employing employees, intending that the cessation is permanent, must notify the Commissioner that employment has ended within 30 working days after the date on which they stop employing employees.	35

23M Correction of errors

- (1) This section provides a regulation-making power for matters relating to the correction of errors in employment income information and the manner in which corrections may be made.
- (2) The Governor-General may, by Order in Council on the recommendation of the Minister of Revenue, make regulations, providing—
- (a) the nature and type of errors that are able to be corrected by an employer;
 - (b) the manner in which errors in employment income information may be corrected, and the specifications for; the correction of particular errors in employment income information: 10
 - (c) the periods to which corrections may relate, including past periods and future periods.
- (3) Before making a recommendation under **subsection (2)**, the Minister must undertake consultation on the proposed amendment regulation that is appropriate and reasonable for the purposes of this section. 15

23N Setting electronic and non-electronic filing requirements

- (1) For the delivery of employment income information by an employer or a class of employers, the Commissioner—
- (a) must prescribe— 20
 - (i) an electronic form and means of electronic communication:
 - (ii) a form or mode of delivery other than by electronic means:
 - (b) may from time to time set specifications for payroll software for use in the delivery of that information.
- (2) To enable the processing of a payment made to the Commissioner by an employer in relation to an employee, the Commissioner may notify an employer, or a class of employers, that certain items of employment income information must accompany the payment. 25

23O Employment income information: payroll software

For the purposes of **sections 23H(4) and 23N**, **payroll software** means a commercially available computer application payroll system or service, or another bespoke equivalent, that enables the calculation of amounts of salary or wages and amounts that are required to be withheld under the PAYE rules. 30

23P Employment income information: variation of requirements

The Commissioner may vary the requirements set out in this subpart and **schedule 4** for an employer or a class of employers, and the requirements apply as varied. 35

201	Cross-heading and section 24 repealed	
	Repeal the cross-heading before section 24 and section 24.	
202	Cross-heading and section 24BA repealed	
	Repeal the cross-heading before section 24BA and section 24BA.	
203	Section 24B amended (PAYE tax codes)	5
(1)	In section 24B(3), words before paragraph (a), replace “section 24BA(1D)” with “ subsection (3C) ”.	
(1B)	<u>In section 24B(3)(c), replace “annual income is not” with “annual income is more than \$14,000 but not”.</u>	
(2)	After section 24B(3B), insert:	10
(3C)	Despite subsections (3) and (3B) , an employee who is a non-resident seasonal worker under the recognised seasonal employer (RSE) instructions has a tax code of NSW for the first month of a period of employment in New Zealand.	
204	Sections 24B to 24IB replaced	15
	Replace sections 24B to 24IB with:	
	Subpart 3D—Tax codes and tax rates for certain payments	
24B	PAYE tax codes	
(1)	For the purposes of the PAYE rules, a tax code means—	
(a)	a code applying to an employee’s earnings set out in the table in schedule 5, part A as notified by the employee under section 24C :	20
(b)	a tax code provided by the Commissioner under section 24D :	
(c)	a tax code provided under schedule 5, part B, clause 3 :	
(d)	a non-notified tax code under section 24E .	
(2)	A tax code does not apply in relation to—	25
(a)	a schedular payment, <i>see</i> sections 24F–and, 24G, and 24GB, and schedule 5, part C :	
(b)	an extra pay, <i>see</i> sections RD 7 and RD 17 of the Income Tax Act 2007.	
(3)	The amount of tax for a payment of an income-tested benefit is determined under section RD 11(3) of the Income Tax Act 2007.	30
(4)	The basic tax rates for payments of salary or wages for particular tax codes, including a non-notified tax code, are set out in the Income Tax Act 2007, schedule 2, part A.	

24C Notified tax codes

(1) An employee must notify their employer of the tax code applicable to their circumstances or of a change in their tax code. The notification must be in a form authorised by the Commissioner. ~~However, this subsection does not apply in relation to—~~ 5

(a) ~~a tax code provided by the Commissioner to the employer under **schedule 5, part A, clause 2(2)**;~~

(b) ~~a tax code for a non-resident seasonal worker under **schedule 5, part B, clause 3**.~~

(1B) ~~This section does not apply in relation to—~~ 10

(a) ~~a tax code provided by the Commissioner to the employer under **schedule 5, part A, clause 2(2)**;~~

(b) ~~a tax code for a non-resident seasonal worker under **schedule 5, part B, clause 3**.~~

(2) ~~The notification must include an employee's statement of their entitlement under the Immigration Act 2009 to work for their employer.~~ 15

24D Tax codes provided by the Commissioner

An employee may apply to the Commissioner for—

(a) a special tax code under **schedule 5, part B, clause 1** to apply to either— 20

(i) their New Zealand superannuation income or veteran's pension income; or

(ii) their other employment income from 1 or more employers:

(b) a tax code under **schedule 5, part B, clause 2** for their employment as a private domestic worker. 25

24E Non-notified tax codes

(1) An employee, other than a person referred to in **section 24D**, has a non-notified tax code if—

(a) the employee has not notified their employer of—

(i) their name; and 30

(ii) their tax file number; and

(iii) their tax code; and

(b) the Commissioner has not provided the employer with a tax code or change in tax code under **schedule 5, part A, clause 3**; and

(c) the employee is not a non-resident seasonal worker referred to in **schedule 5, part B, clause 3**. 35

(2) For the purposes of **subsection (1)(a)(i)**, a person’s name is their full name that is sufficient to enable the Commissioner to ascertain a correct tax file number for the person.

24F Rates of tax for schedular payments: standard, payee, and set rates

(1) In this section, and **sections 24G, 24GB, and 24GC**, and in **schedule 5, part C, clauses 1 to 7**,—

- (a) a person who is making a schedular payment is referred to as the **payer**;
- (b) a person who is entitled to receive a schedular payment is referred to as the **payee**.

(2) The standard rates of tax for schedular payments are set out in schedule 4 of the Income Tax Act 2007. 10

(3) A payee may choose the rate of tax for the payment under **schedule 5, part C, clause 4**. Minimum rates apply, *see clause 4(1)*.

(4) If a payee has a liability under the Inland Revenue Acts that has not been met, the Commissioner may, from time to time, set a rate of tax for a schedular payment of the payee under **schedule 5, part C, clause 5**. The Commissioner must notify both the payee and the payer of the rate. 15

(5) ~~A payee, other than a non-resident entertainer, must notify the payer of their name and tax file number, and of the tax rate applying to the payment.~~

24G Special tax rates for schedular payments 20

(1) ~~A payee, may apply to the Commissioner under **schedule 5, part C, clause 6** for a special rate of tax applying to some or all of a schedular payment~~

(2) ~~The Commissioner may notify a payee that 1 or more schedular payments that they are entitled to receive are payments for which no amount of tax is to be withheld. However, this subsection does not apply to a payment referred to in schedule 4, part J of the Income Tax Act 2007 to a New Zealand resident.~~ 25

(3) ~~This section does not apply to a payment to a non-resident entertainer.~~
A payee, other than a non-resident entertainer, may apply to the Commissioner, under **schedule 5, part C, clause 6**, for a special rate of tax that applies to some or all of a schedular payment. 30

24GB Exempt schedular payments

(1) The Commissioner may notify a payee under **schedule 5, part C, clause 6B**, that 1 or more schedular payments that they are entitled to receive are payments for which no amount of tax is to be withheld.

(2) This section does not apply to— 35

- (a) a payment made to a non-resident entertainer:
- (b) a payment described in schedule 4, part J of the Income Tax Act 2007 that is made to a payee who is a New Zealand resident.

24GC Notification requirements

- (1) A payee, other than a non-resident entertainer, must notify the payer of their name and tax file number. The notification must be in a form authorised by the Commissioner.
- (2) The payee must also notify the payer of the rate of tax applying to the payment if— 5
- (a) they choose the rate of tax as described in **section 24F(3)**:
- (b) they are using a rate of tax set by the Commissioner under **section 24F(4)**:
- (c) they are using a special rate of tax referred to in **section 24G**. 10

24H Variation of requirements

The Commissioner may vary the requirements of **section 24B** and **schedule 5, part A, clause 4**, for a person or class of persons at any time.

205 Cross-heading and section 24J repealed

Repeal the cross-heading before section 24J and section 24J. 15

206 Section 24K amended (Certain information required in returns)

- (1) Renumber section 24K as **section 56B**.
- (2) In **section 56B**,—
- (a) in subsection (3)(a), replace “section 67” with “**section 25G(2)**”:
- (b) in subsection (5), replace “section 68B” with “**section 25I(2)**”. 20

207 Sections 24L, 24LB, 24LC, 24M, 24N, and 24P repealed

Repeal sections 24L, 24LB, 24LC, 24M, 24N, and 24P.

208 Cross-heading and section 24Q amended

Renumber section 24Q as **section 15ZB** and insert the cross-heading “*Payroll donations*” before it. 25

209 New heading inserted (RWT rates, certificates, and records)

Replace the cross-heading before section 25A, with “Subpart 3E—RWT rates, certificates, and records”.

210 Section 25A amended (Use of inconsistent RWT rates)

- (1) Renumber section 25A as **section 26B**. 30
- (2) In **section 26B(2)**, replace “for the person.” with “for the person. If the Commissioner notifies the payer of the inconsistent rate, the Commissioner must notify the payee at the same time.”

211 Section 25 amended (RWT withholding certificates)

- (1) In section 25(2), replace “the tax deduction certificate” with “the RWT withholding certificate”.
- (2) Renumber section 25 as **section 26C**.
- (3) Replace **section 26C(1)** with: 5
 - (1) Subsection (1B) applies for a tax year when a payer withholds RWT for resident passive income for the following amounts paid to or derived by a payee who has not provided the payer with their tax file number—
 - (a) interest:
 - (b) a dividend treated as interest: 10
 - (c) a dividend to which section RE 9(2) of the Income Tax Act 2007 applies.
- (4) In **section 26C(4)**, replace “a person who continues to hold an RWT exemption certificate issued to that person” with “a person with RWT-exempt status”.
- (5) In **section 26C(5)**,— 15
 - (a) replace “a person holding an RWT exemption certificate issued to that person” with “a person with RWT-exempt status”:
 - (b) replace “notwithstanding such cessation in holding an RWT exemption certificate” with “despite the ending of the person’s RWT-exempt status”.

212 New subpart 3E inserted (Investment income information) 20

Insert before section 26, replacing the subpart heading:

Subpart 3E—Investment income information

25B Investment income information: outline of provisions

- (1) This subpart sets out the information that a person who makes a payment of investment income is required to provide to the Commissioner and, in particular,— 25
 - (a) what is meant for reporting purposes by investment income and investment income information:
 - (b) who must provide investment income information to the Commissioner:
 - (c) when investment income information must be provided and how it must be delivered: 30
 - (d) when information is required in relation to certain types of investment:
 - (e) the correction of errors:
 - (f) when information may be filed in non-electronic form.
- (2) In this subpart, and in **schedule 6**,— 35

- (a) a person who makes a payment of investment income is called the **payer**:
- (b) a person who derives or receives a payment of investment income is called the **payee**.
- (3) For the provisions related to— 5
- (a) the use of inconsistent RWT rates, *see* **section 26B**:
- (b) RWT withholding certificates, *see* **section 26C**:
- (c) shareholder dividend statements, *see* **section 29**:
- (d) Maori authority notices, *see* section 31:
- (e) notification requirements for multi-rate PIEs, *see* section 31C: 10
- (f) further requirements for multi-rate PIEs, *see* section 57B:
- (g) ~~late filing penalties, *see* **section 139A**:~~
- (h) non-electronic filing penalties, *see* **section 139AA**.
- 25C Investment income**
- For the purposes of this subpart and ~~sections RA 11~~ of the Income Tax Act 2007, **section 227E, and schedule 6**, investment income means— 15
- (a) resident passive income under section RE 2(1)(a) to (c), ~~(3)(b), and (5)(d)~~ of the Income Tax Act 2007, subject to the withholding obligations set out in sections RE 3 and RE 4 of that Act:
- (b) non-resident passive income under section RF 2(1) of that Act: 20
- (c) attributed income of investors in portfolio investment entities under sections CP 1, CX 56, and CX 56B of that Act.
- 25D Investment income information**
- (1) **Investment income information** means the items of information listed in **schedule 6, table 1** relating to an amount of investment income, that a payer referred to in **section 25E** must either provide to the Commissioner under this subpart or retain under **section 22AAB**. 25
- (1B) The information must be provided for each relevant reporting period rather than on a cumulative basis.
- (2) If an investment is owned jointly by 2 or more investors, and the payer of the investment income holds the relevant information, the payer must include in their investment income information the information set out in **schedule 6, table 1, row 16** in relation to each owner. 30
- (3) **Subsection (2)** does not apply to a payer in relation to a payment to or for joint owners that is received in their capacity as— 35
- (a) beneficiaries of a trust:
- (b) shareholders in a company:

- (c) partners in a partnership, unless the partners are not required to file a separate return.
- (4) Despite **subsection (1)**, if the following items of information have been obtained before 1 April 2018, the requirement to include the item in investment income information provided to the Commissioner applies only when it is held in electronic form: 5
- (a) a person’s date of birth:
- (b) for joint owners, the names, tax file numbers, dates of birth, and contact addresses.
- 25E Who must provide investment income information to Commissioner** 10
- (1) The persons who must provide their investment income information to the Commissioner by the relevant date set out in this subpart are—
- (a) a person who is required to withhold an amount of tax for a payment of interest, *see* **section 25F**:
- (b) a person who chooses under section 32M to pay approved issuer levy in relation to ~~domestic~~ debt, other than a debt in relation to which the interest payments are administered by an offshore paying agent: 15
- (c) a company that pays a taxable dividend to a person, including a dividend described in section RE 9 of the Income Tax Act 2007, *see* **section 25G**: 20
- (d) a person who pays a royalty to a non-resident person, *see* **section 25H**:
- (e) a Maori authority that makes a taxable distribution to a member of the authority, other than a retirement scheme contribution, *see* **section 25I**:
- (f) a multi-rate PIE, other than a superannuation fund or retirement savings scheme, that attributes income to an investor or a proxy for an investor, *see* **section 25J**: 25
- (g) a multi-rate PIE that is a superannuation fund or retirement savings scheme that attributes income to an investor or a proxy for an investor, *see* **section 25K**:
- (gb) a public unit trust that pays an amount that is treated as a taxable dividend on a withdrawal from the trust, *see* **section 25KB**: 30
- (h) an emigrating company that is treated under section FL 2 of the Income Tax Act 2007 as paying a dividend to shareholders, *see* **section 25L**:
- (i) ~~a person who would be liable to pay an amount referred to in **paragraphs (a), (c), or (e)** but the payment is made to a person who has RWT-exempt status under **section RE 27** of the Income Tax Act 2007:~~ 35
- (j) a person who would be liable to pay an amount referred to in **paragraph (a)** but for the circumstances described in **subsection (2)**.

- (2) The circumstances referred to in **subsection (1)(j)** are that a person who pays interest for which RWT is not required to be withheld because—
- (a) the amount—
 - (i) is not paid by the person in the course or furtherance of a taxable activity; or
 - (ii) is an amount to which section RE 10 of the Income Tax Act 2007 applies; and
 - (b) the amount is allowed as a deduction under that Act; and
 - (c) the amount is paid to a person other than a person with RWT-exempt status.
- 25F Information on interest**
- (1) A payer referred to in **section 25E(1)(a) and (b)** must deliver the investment income information for the payment of interest as set out in **schedule 6, table 1, rows 1 to 11, 16, 21, and 2922**, as applicable, to the Commissioner—
- (a) in electronic form and by means of an electronic communication as prescribed by the Commissioner; and
 - (b) by the 20th of the month following the month in which the amount of investment income is paid to or derived by the payee.
- (2) Despite **subsection (1)**, when an investor is a nominee, the investment income information required from a payer referred to in **section 25E(1)(b)** is limited to information held in relation to the nominee unless the payer has access to information on the ultimate investor.
- 25G Information on dividends**
- (1) A payer referred to in **section 25E(1)(c)** must deliver the investment income information for the payment of the dividend as set out in **schedule 6, table 1, rows 1 to 11, 14, and 16, and 29 to 22**, as applicable, to the Commissioner—
- (a) in electronic form and by means of an electronic communication as prescribed by the Commissioner; and
 - (b) by the 20th of the month following the month in which the amount of investment income is paid to or derived by the payee.
- (2) ~~A payer that is an ICA company must, at the time it declares a dividend, complete and retain a company dividend statement containing the information set out in **schedule 6, table 1, rows 17 to 22 and 29**. The information must be delivered as required under **subsection (1)**.~~

25H Information on royalties paid to non-residents

A payer referred to in **section 25E(1)(d)** must deliver the investment income information for the payment of the royalty as set out in **schedule 6, table 1, rows 1 to 11, 16, 21, and 2922**, as applicable, to the Commissioner—

- (a) in electronic form and by means of an electronic communication as prescribed by the Commissioner; and 5
- (b) by 31 May after the end of the tax year.

25I Information on Maori authority distributions

(1) A payer referred to in **section 25E(1)(e)** must deliver the investment income information for the payment of a Maori authority distribution as set out in **schedule 6, table 1, rows 1 to 1410, 15, 16, 21, and 2922**, as applicable, to the Commissioner— 10

- (a) in electronic form and by means of an electronic communication as prescribed by the Commissioner; and
- (b) by the 20th of the month following the month in which the amount of investment income is paid to or derived by the payee. 15

~~(2) A payer that makes a distribution to a member must, at the time of making the distribution, complete and retain a distribution statement containing the information set out in **schedule 6, table 1, rows 23 to 26**. The information must be delivered as required under **subsection (1)**. 20~~

25J Information on attributed PIE income: non-locked-in funds

(1) A payer referred to in **section 25E(1)(f)** must deliver the investment income information for the relevant attributed PIE income as set out in **schedule 6, table 1, rows 1 to 10, 12, 13, 14, 16, 21, and 2922**, as applicable, for a tax year to the Commissioner— 25

- (a) in electronic form and by means of an electronic communication as prescribed by the Commissioner; and
- (b) by the following relevant date:
 - (i) 15 May after the end of the tax year, if the PIE has a corresponding income year that does not end after the end of the tax year: 30
 - (ii) the end of the second month after that in which the PIE’s corresponding income year ends, if the PIE has a corresponding income year that ends after the end of the tax year:
 - (iii) the end of the third month after that in which the PIE loses PIE status, if the cessation occurs in the corresponding income year. 35

~~(2) The payer must deliver the investment income information set out in **schedule 6, table 1, rows 1 to 7 and 12** for a tax year—~~

- ~~(a) in electronic form and by means of an electronic communication as prescribed by the Commissioner; and~~

- (b) as at 30 September in the tax year; and
- (c) by 20 October in the tax year.

25K Information on attributed PIE income: locked-in funds

- (1) A payer referred to in **section 25E(1)(g)** must deliver the investment income information for the relevant attributed PIE income as set out in **schedule 6, table 1, rows 1 to 10, 12, 13, 14, 16, 21, and 2922**, as applicable, for a tax year to the Commissioner— 5
- (a) in electronic form and by means of an electronic communication as prescribed by the Commissioner; and
 - (b) by the following relevant date: 10
 - (i) 30 June after the end of the tax year, if the PIE has a corresponding income year that does not end after the end of the tax year:
 - (ii) the end of the second month after that in which the PIE’s corresponding income year ends, if the PIE has a corresponding income year that ends after the end of the tax year: 15
 - (iii) the end of the third month after that in which the PIE loses PIE status, if the cessation occurs in the corresponding income year.
- (2) ~~The payer must deliver the investment income information set out in **schedule 6, table 1, rows 1 to 7 and 12** for a tax year—~~ 20
- ~~(a) in electronic form and by means of an electronic communication as prescribed by the Commissioner; and~~
 - ~~(b) as at 30 September in the tax year; and~~
 - ~~(c) by 20 October in the tax year.~~

25KB Information from public unit trusts

- A payer referred to in **section 25E(1)(gb)** must deliver the investment income information set out in **schedule 6, table 1, rows 1 to 11, 14, 16, 21, and 22** for a tax year— 25
- (a) in electronic form and by means of an electronic communication as prescribed by the Commissioner; and
 - (b) by 15 May after the end of the tax year. 30

25L Information from emigrating companies

- A payer referred to in **section 25E(1)(h)** must deliver the investment income information set out in **schedule 6, table 1, rows 1 to 11, 14, 16, 21, and 22 and 29**, as applicable, for a tax year to the Commissioner— 35
- (a) in electronic form and by means of an electronic communication as prescribed by the Commissioner; and
 - (b) within 3 months after the time of emigration.

25M Information in relation to persons with RWT-exempt status

(1) A payer referred to in **section 25E(1)(i)** must deliver the investment income information set out in **schedule 6, table 1, rows 1 to 11, 16, and 29**, as applicable, for a tax year to the Commissioner—

- (a) in electronic form and by means of an electronic communication as prescribed by the Commissioner; and 5
- (b) by 20 April after the end of the tax year.

(2) Despite subsection (1), the payer may choose to deliver their investment income information to the Commissioner—

- (a) in electronic form and by means of an electronic communication as prescribed by the Commissioner; and 10
- (b) by the 20th of the month following the month in which the amount of investment income is paid.

25N Information from payers with no withholding obligation

A payer referred to in **section 25E(1)(j)** must deliver the investment income information described in **schedule 6, table 1, rows 4 to 8, 16, 21, and 22 and 29**, as applicable, for a tax year to the Commissioner— 15

- (a) in electronic form and by means of an electronic communication as prescribed by the Commissioner; and
- (b) with their return of income for the corresponding income year. 20

25O Certain information on financial arrangements

(1) This section applies when—

- (a) a person (**person A**) who has RWT-exempt status acquires a financial arrangement from, or disposes of a financial arrangement to, another person (**person B**); and 25
- (b) person B is neither a party to the financial arrangement nor a person who has RWT-exempt status; and
- (c) interest payable under the financial arrangement would have been subject to RWT but for the fact of person A's RWT-exempt status.

(2) This section also applies when person A makes a redemption payment to person B from which RWT has not been withheld under section RE 6 of the Income Tax Act 2007. 30

(3) Person A must deliver the investment income information described in **schedule 6, table 1, rows 4 to 7, 16, and 27 to 29** for a tax year to the Commissioner— 35

- (a) in electronic form and by means of an electronic communication as prescribed by the Commissioner; and
- (b) with their return of income for the tax year.

25P Correction of errors in investment income information

An adjustment may be made under **section RA 11 or RA 12** of the Income Tax Act 2007 to correct certain errors that a payer has made in relation to an amount of tax for RWT or NRWT.

25Q Non-electronic filing of investment income information

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(1) Despite **sections 25F to 25N**, the Commissioner may ~~discharge~~exempt a payer from the requirement to deliver their investment income information in electronic form and by means of an electronic communication. The Commissioner must provide a statement of reasons for the exemption.

(2) In determining whether to ~~discharge~~exempt a payer under **subsection (1)**, the Commissioner must have regard to—

(a) ~~the capability of the payer;~~ and

(b) the nature and availability of digital services to the payer, including the reliability of those services for the purposes of the payer; and

(bb) the capability of the payer relating to the use of computers; and

(c) ~~the compliance costs that the payer would incur in complying with the requirements, if those costs would be unreasonable in the circumstances would be incurred by the payer in meeting the delivery requirements.~~

(3) Subject to **subsection (4)**, an exemption under this section remains valid until the Commissioner notifies the payer that the exemption is to be cancelled. The exemption expires on the date that is 6 months after that given in the Commissioner's notice.

(4) In making an exemption under this section, the Commissioner may set a time limit on the exemption, stating a start date and an end date, as applicable, for the exemption and the reason for setting a time limit.

(5) An exemption under this section is neither a legislative instrument nor a disallowable instrument for the purposes of the Legislation Act 2012 and does not have to be presented to the House of Representatives under section 41 of that Act.

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25R Setting electronic and non-electronic filing requirements

For the delivery of investment income information, the Commissioner—

(a) must prescribe—

(i) an electronic form and means of electronic communication:

(ii) a form or mode of delivery other than by electronic means:

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(b) may from time to time set specifications for software for use in the delivery of that information.

- 216 New subpart heading inserted (Statements, notices, and certificates)**
Before section 29, insert a new heading “Subpart 3F—Statements, notices, and certificates”.
- 217 Section 31B amended (Notification requirements for PIEs)**
After section 31B(1), insert: 5
- (1B) A multi-rate PIE choosing to calculate and pay its income tax liability under an option set out in section HM 42, HM 43, or HM 44 of the Income Tax Act 2007 must comply with the notice requirements for making the election set out in the relevant provision. ~~The notice must be in the prescribed electronic form.~~
- 218 Section 32E amended (Applications for RWT exemption certificates)** 10
- (1) In section 32E, in the section heading, replace “RWT exemption certificates” with “RWT-exempt status”.
- (2) In section 32E(1) replace “an RWT exemption certificate” with “RWT-exempt status”.
- (3) In section 32E(2)(k), replace “and CW 63” with “and CW 64”. 15
- (3B) After section 32E(2)(kc), insert:
- (kd) a tertiary education subsidiary that derives exempt income under section CW 55BA of the Income Tax Act 2007:
- (4) **Subsection (3)** applies for the 2008–09 and later income years.
- 219 Section 32G amended (Evidence of annual gross income and consequences of failure to meet threshold)** 20
- (1) In section 32G(1), replace “an RWT exemption certificate” with “RWT-exempt status”.
- (2) In section 32G(4), replace “had they not held an RWT exemption certificate” with “had they not had RWT-exempt status”. 25
- (3) In section 32G(7), replace “provide an RWT exemption certificate to, or allow it to be retained by” with “provide RWT-exempt status to, or allow RWT-exempt status to be retained by,”.
- 220 Section 32H replaced (Providing RWT exemption certificate when person meets requirements)** 30
- Replace section 32H with:
- 32H RWT-exempt status when persons meet requirements**
- (1) When a person who meets the requirements of **section 32E** applies to the Commissioner for RWT-exempt status, the Commissioner must—
- (a) ~~add~~publish the person’s name, tax file number, and ~~other relevant details including the start date and, if applicable or appropriate, the end date~~ on the electronic register of persons with RWT-exempt status; and 35

- (b) notify the person of the issue of the status, and the start and end date, as applicable .
- (2) A person’s RWT-exempt status takes effect on the start date provided in the electronic register.
- (3) For the purposes of the provisions relating to investment income information, if a person has been issued with, or holds, or retains, or is allowed to retain, an RWT exemption certificate that remains current, they are treated as having RWT-exempt status if their ~~name appears~~details appear on the electronic register referred to in **subsection (1)**. 5
- 221 Section 32I amended (Providing RWT exemption certificate to person who does not meet requirements)** 10
- (1) In section 32I, in the section heading, replace “**RWT exemption certificate**” with “**RWT-exempt status**”.
- (2) In section 32I(1), replace “provide an RWT exemption certificate for a period, including an unlimited period, to a person who does not meet the requirements” with “provide RWT-exempt status to the person when they do not meet the requirements”. 15
- (3) In section 32I(2), replace “may not provide an RWT exemption certificate to a person” with “may not provide RWT-exempt status to a person”.
- (4) Repeal section 32I(4) and (5). 20
- 222 Section 32J replaced (RWT exemption certificates for unincorporated bodies)**
- Replace section 32J with:
- 32J RWT-exempt status for unincorporated bodies**
- (1) When the Commissioner provides RWT-exempt status ~~under **section 32I**~~ to an unincorporated body described in section RE 30 of the Income Tax Act 2007,— 25
- (a) the named body has the RWT-exempt status; and
- (b) no member of the body may have RWT-exempt status in relation to a taxable activity carried on by the body. 30
- (2) For the purposes of the RWT rules and RWT-exempt status, a notice to the body is treated as served on the body and on each member of the body.
- 223 Section 32K amended (Failing to meet basis of exemption)**
- (1) In section 32K(1), replace “a holder of an RWT exemption certificate” with “a person who has RWT-exempt status”. 35
- (2) Replace section 32K(2) with:

- (2) If the person becomes aware that they no longer meet the requirements, they must notify the Commissioner within a period of 5 days after the day on which they become aware.
- (3) In section 32K(3), replace “the holder to provide the full name and last known address of all persons to whom they have shown the certificate” with “the person to provide the full name and last known address of all persons to whom they have advised their RWT-exempt status”.

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224 Section 32L replaced (Cancellation of RWT exemption certificates)

Replace section 32L with:

32L Revocation of RWT-exempt status

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- (1) The Commissioner may revoke a person’s RWT-exempt status at any time if—
- (a) the Commissioner reasonably believes that the person no longer meets the requirements on which their exemption is based; or
 - (b) the person did not meet the requirements on which their exemption was based, having acquired the status through misleading information; or
 - (c) the person should not have been provided with RWT-exempt status; or
 - (d) the person’s RWT-exempt status was based on a ground set out in section 32E(2)(i) or (j), and the evidence provided under **section 32G**—
 - (i) shows the person did not meet the threshold; or
 - (ii) is unsatisfactory; or
 - (iii) is materially incorrect or misleading; or
 - (e) the person is liable for income tax that remains unpaid by the due date for payment.
- (2) The Commissioner must notify the person whose status has been revoked within 30 working days of the revocation. The Commissioner may also make a request under section 32K(3) with which the person must comply.
- (3) Despite **subsection (1)**, if the Commissioner considers that a person referred to in **subsection (1)(a) to (d)** is a person to whom **section 32G** applies and has a further basis for RWT-exempt status, the Commissioner must not revoke the status.
- (4) A person referred to in **subsection (2)** must, within 5 days of being notified by the Commissioner, notify every person that they have advised of their RWT-exempt status and from whom they expect to receive further payments of resident passive income that their status has been revoked.
- (5) The Commissioner must publish on an electronic register, a list of all persons whose RWT-exempt status has been revoked.

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225 Section 33 amended (Returns of income)

- (1) Replace the heading before section 33 with “Subpart 3G—Returns”.

- (2) After section 33(1C), insert:
- (1D) ~~A trustee of a trust that must calculate the trust’s taxable income under **section HC 2** of the Income Tax Act 2007 must provide a return of income for the trust for a tax year unless section 43B applies in relation to the trust.~~
- (3) **Subsection (2)** applies for the 2008–09 and later income years. 5
- 226 Section 33AA amended (Exceptions to requirement for return of income)**
- (1) In section 33AA(1)(b), replace “issued under section 24F” with “notified by the Commissioner under **schedule 5, part B, clause 1**”.
- (2) In section 33AA(1)(l), replace “holds an RWT exemption certificate” with “has RWT-exempt status”. 10
- (3) In section 33AA(3)(c), replace “section 25(7)” with “**section 26C(7)**”.
- 227 Section 36 amended (Commissioner may approve furnishing of return information by electronic means)**
- Repeal section 36(4).
- 228 Section 36A repealed (Electronic format of employer monthly schedule and PAYE payment form)** 15
- Repeal section 36A.
- 229 Section 36AB repealed (Electronic return requirements for multi-rate PIEs)**
- Repeal section 36AB. 20
- 230 Section 36B repealed (Other formats of employer monthly schedule)**
- Repeal section 36B.
- 231 New section 36BD inserted (Electronic filing requirements for registered persons)**
- After section 36BC, insert: 25
- 36BD Electronic filing requirements for registered persons**
- (1) The Commissioner must prescribe 1 or more electronic forms or means of electronic communication that—
- (a) a registered person may use to file a return required under the Goods and Services Tax Act 1985; or 30
- (b) a registered person whose taxable supplies exceed the threshold set out in **subsection (2)**, must use to file a return under that Act.
- (2) The Governor-General may, on the recommendation of the Minister of Revenue, make an Order in Council setting a threshold for the value of taxable supplies of a registered person that mean the person is required to use an electronic 35

- form or means of electronic communication for filing a return under that Act. Before making the recommendation, the Minister must undertake consultation on the proposed threshold that is appropriate and reasonable for the purposes of this section.
- (3) The Commissioner may exempt a registered person, or a class of registered persons, whose taxable supplies exceed the threshold from the requirement to file in the prescribed electronic form or by the prescribed means of electronic communication. The Commissioner must provide a statement of reasons for the exemption. In determining whether to exempt the person or class of persons, the Commissioner must have regard to—
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- (a) the nature and availability of digital services to the person; and
- (b) the costs that the person would incur in complying with the requirements if those costs would be unreasonable in the circumstances.
- (4) In determining under **subsection (3)** whether to exempt the person or class of persons, the Commissioner must have regard to—
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- (a) the nature and availability of digital services to the person or persons in the class, including the reliability of those services for the purposes of the person or persons; and
- (b) the capability of the person or persons in the class relating to the use of computers; and
- 20
- (c) the costs that the person or persons in the class would incur in complying with the requirements if those costs would be unreasonable in the circumstances.
- (5) Subject to **subsection (6)**, an exemption under this section remains valid until the Commissioner notifies the employer that the exemption is to be cancelled. The exemption expires on the date that is 6 months after that given in the Commissioner’s notice.
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- (6) In making an exemption under this section, the Commissioner may set a time limit on the exemption, stating a start date and an end date, as applicable, for the exemption and the reason for setting the limit.
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- (7) An exemption under **subsection (3)** is neither a legislative instrument nor a disallowable instrument for the purposes of the Legislation Act 2012 and does not have to be presented to the House of Representatives under section 41 of that Act.
- 232 Section 36C amended (Particulars furnished in electronic format)** 35
- In section 36C(1) replace “36BB, or 36BC” with “36BB, 36BC, or **36BD**”.
- 233 Sections 36CA, 36D, and 36E repealed**
- Repeal sections 36CA, 36D, and 36E.

- 234 New cross-heading inserted before section 37 (Returns and return dates)**
 Before section 37, insert “Returns and return dates” as a cross-heading.
- 235 Section 46 amended (Employer to make returns as to employees)**
- (1) In section 46(6B) replace “section CE 2(2) or (4)” with “**section CE 1(1)(d)**”.
 - (2) In section 46(6B)(b)(i), replace “share purchase agreement” with “employee share scheme”.
- 235B Section 46 amended (Employers to make returns as to employees)**
 In section 46(7), replace “section RD 3(2) to (4)” with “section RD 3B or RD 3C”.
- 235C Section 46 amended (Employers to make returns as to employees)**
- After **section 46(7)**, insert:
- (8) For the purposes of the new rules relating to the delivery of employment income information set out in section 200 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2017, the Governor-General may, by Order in Council, on the recommendation of the Minister of Revenue, make regulations providing—
 - (a) the nature and type of errors that are able to be corrected by an employer or PAYE intermediary:
 - (b) the manner in which errors in employment income information may be corrected and the specifications for the correction of particular errors in employment income information:
 - (c) the periods to which corrections may relate, including past periods and future periods.
 - (9) Before making a recommendation under subsection (8), the Minister must undertake consultation on the proposed regulation that is appropriate and reasonable for the purposes of this section.
- 236 Section 46 repealed (Employers to make returns as to employees)**
 Repeal **section 46**.
- 236B Section 46C amended (FBT returns for years)**
 After section 46C(3), insert:
- (3B) **Subsection (3C)** applies to an employer who—
 - (a) chooses to pay under the close company option; and
 - (b) is linked to a tax agent to whom section 37(4) and section RA 13(2)(a)(i) and (4) of the Income Tax Act 2007 apply.
 - (3C) Despite subsection (3), during the period of co-existence of 2 Inland Revenue software platforms, the employer may provide the return by the due date for the

	<u>month that is specified in schedule 3, part A, column H of the Income Tax Act 2007. The employer is liable to pay the amount calculated by the same date. This subsection expires and is repealed on 31 December 2021.</u>	
237	Section 47 amended (ESCT statements provided by employers and others) Replace section 47(2) with:	5
(2)	The employer, person, or PAYE intermediary must deliver their employment income information to the Commissioner by the relevant dates set out in sections 23E to 23H showing the amount of the employer’s superannuation cash contribution, the amount of ESCT relating to the contribution, and any other particulars required by the Commissioner.	10
238	Section 48 repealed (Special arrangements for supply of information by employer or PAYE intermediary to Commissioner) Repeal section 48.	
239	Section 49 amended (NRWT withholding certificates and annual reconciliations)	15
(1)	In section 49(1B), replace “31 May” with “15 May”.	
(2)	In section 49(4C)(a), replace “31 May” with “15 May”.	
(2B)	After section 49(4C), insert:	
(4D)	<u>Despite subsections (1B) and (4C)(a), the information required to be provided for a royalty paid to a non-resident person must be provided by 31 May after the end of the tax year.</u>	20
(3)	Subsections (1) and (2) apply for the 2018–19 and 2019–20 incometax years.	
240	Sections 49 and 50 repealed Repeal sections 49 and 50.	25
241	Section 51 amended (RWT withholding reconciliation statements)	
(1)	In section 51(1B), replace “RWT.” with “RWT by 15 May after the end of the tax year in which the amount is withheld.”	
(2)	Subsection (1) applies for the 2018–19 and 2019–20 income years.	
242	Sections 51, 52, 53, and 54 repealed Repeal sections 51 , 52, 53, and 54.	30
243	Section 55 amended (Consequence of inability to provide tax file numbers) In section 55(a), replace “in accordance with section 52 or section 53 or section 54” with “under the reporting requirements in sections 25F to 25I and 25N25M to 25O ”.	35

244 New section 55B inserted (Information relating to offshore persons and tax file numbers)

After section 55, insert:

55B Information relating to offshore persons and tax file numbers

- (1) The Commissioner must not allocate a tax file number requested by an offshore person until the Commissioner—
 - (a) receives a current bank account number for the offshore person:
 - (b) is satisfied that the information available to the Commissioner relating to the offshore person provides the Commissioner with an assurance of the identity and background of the offshore person. 10
- (2) **Subsection (1)** does not apply to a person—
 - (a) who needs a tax file number solely because they are a non-resident supplier of goods and services under the Goods and Services Tax Act 1985:
 - (b) who is registered, or has applied to be registered, under section 54B of that Act: 15
 - (c) for whom a reporting entity under the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 has conducted the procedures for customer due diligence required under that Act and regulations made under that Act.
- (3) Despite **subsection (1)**, a non-resident seasonal worker under the recognised seasonal employer (RSE) instructions is not required to provide the Commissioner with a current bank account number for the first month of a period of employment in New Zealand. 20
- (4) A person who has a tax file number and a current bank account must immediately provide the person’s current bank account number to the Commissioner if the person,— 25
 - (a) after 1 October 2015, becomes an offshore person under paragraph (b) of the definition of offshore person; and
 - (b) has not previously provided the person’s current bank account number to the Commissioner. 30

245 Section 57 amended (Maori authority to make returns of income)

After section 57(1), insert:

- (1B) **Section 25I** sets out how and when investment income information for a Maori authority distribution must be delivered to the Commissioner.

246 Section 57B amended (Return requirements for multi-rate PIEs) 35

- (1) In section 57B, in the section heading, replace “**Return requirements**” with “**Requirements**”.
- (2) Replace section 57B(1) with:

- (1) This section sets out the responsibilities for a multi-rate PIE or a proxy for an investor in the PIE. **Sections 25J and 25K** set out how and when investment income information on attributed PIE income must be delivered to the Commissioner.
- (3) Replace section 57B(2)(a) with: 5
- (a) to file a return in the prescribed form—
- (i) showing the amount of the tax liability of the entity for the period; and
- (ii) providing the investment income information required under **sections 25J and 25K**, as applicable; and 10
- (iii) providing further information that the Commissioner considers relevant; and
- (4) In section 57B(7)(a), replace “31 May” with “15 May”.
- (5) Repeal **section 57B(7)**.
- (6) After section 57B(6), insert: 15
- (8) The Commissioner must prescribe 1 or more electronic forms and means of electronic communication in which or by which a return must be provided under this section. The Commissioner may specify conditions relating to the format, either general or in a particular case.
- (7) **Subsection (4)** applies for the 2018–19 and later tax years. 20
- 247 Section 61 amended (Disclosure of interest in foreign company or foreign investment fund)**
- In section 61(1C), replace “section 57B(7)” with “**section 25J or 25K**, as applicable”.
- 248 New section 63B inserted (Disclosure requirements for share purchase schemes exempt ESSs)** 25
- After section 63, insert:
- 63B Disclosure requirements for share purchase schemes exempt ESSs**
- (1) A company must notify the Commissioner, in the form prescribed by the Commissioner, that ~~it has a share purchase scheme~~ there is an exempt ESS for its employees that meets the criteria in **section CW 26C(2) to (9)** of the Income Tax Act 2007. 30
- (2) ~~For a tax year, a~~ A company that has a ~~share purchase scheme~~ an exempt ESS for its employees must notify the Commissioner ~~annually~~, in the form prescribed by the Commissioner, of the following:— 35
- (a) ~~when a grant of shares is made to an employee~~ grants of shares made to employees for the tax year:
- (b) any other information required by the Commissioner.

- (3) The form described in **subsection (2)** must be given to the Commissioner on or before the 31 May following the end of the relevant tax year.
- 249 Section 67 repealed (Company dividend statement when ICA company declares dividend)**
Repeal section 67. 5
- 250 ~~Section 68 amended (Statement when FDP credit attached to dividend)~~**
~~In section 68, replace “section 67” with “**section 25G(2)**”.~~
- 251 Section 68B repealed (Distribution statement required when Maori authority makes distribution)**
Repeal section 68B. 10
- 252 Section 70 amended (Annual ICA return to be furnished if: required by Commissioner; requirement for imputation credit account ceases; or balance retrospectively reduced to debit or to less than refund)**
In section 70(2), replace “an imputation return” with “an annual ICA return”.
- 253 Section 74 amended (Annual ICA return to be furnished in respect of consolidated imputation group)** 15
In section 74(1)(b)(iii), replace “an imputation group:” with “an imputation group; and”.
- 253B Section 78D amended (Evidential requirements for tax credits)**
In section 78D, replace “taxpayer who” with “taxpayer who has a non-notified tax code and who”. 20
- 254 Section 80A amended (Application)**
- (1A) In section 80A(1)(a)(ii), replace “(k) to (n)” with “(k) to (p)”.
- (1) In section 80A(1)(b) replace “section 80C(4)” with “section 80C”.
- (1B) **Subsection (1A)** applies for the 2016–17 and later income years. 25
- (2) **Subsection (1)** applies for the 2009–10 and later income years.
- 255 Section 80D amended (Commissioner must issue income statement)**
In section 80D(1)(c)(iii), replace “section RD 4(2) of the Income Tax Act 2007 to provide to the Commissioner an employer monthly schedule” with “**section RD 22(1)** of the Income Tax Act 2007 to provide to the Commissioner employment income information”. 30
- 256 Section 80F amended (Taxpayer obligations and assessment on receipt of income statement)**
In section 80F(5), replace “section 25(7)” with “**section 26C(7)**”.

- 257 Section 80KT amended (Details of payments of tax credits)**
- (1) In section 80KT(2), replace “give the Commissioner details of the payment in an employer monthly schedule.” with “provide details of the payment at a time and in a manner agreed by the chief executive and the Commissioner.”
- (2) Repeal section 80KT(3) and (4). 5
- 258 Section 85 amended (Disclosure of address information in relation to debtors)**
- In section 85(6), in the definition of **debtor**, paragraph (c), replace “Child Support Act 1991.” with “Child Support Act 1991; or”.
- 259 Section 85H amended (Disclosure of information for purposes of Parental Leave and Employment Protection Act 1987)** 10
- In section 85H(2), replace “spouse” with “spouse, civil union partner, or de facto partner”.
- 260 Section 91AAQ amended (Determination on insurer as non-attributing active CFC)** 15
- In section 91AAQ(2)(c) and (3)(a), delete “, before and after 30 June 2009,” in each place where it appears:
- (1) Repeal section 91AAQ(2)(c).
- (2) Replace section 91AAQ(3)(a) with:
- (a) the group is a group of companies that— 20
- (i) is controlled by a New Zealand resident; and
- (ii) has, in a country or territory outside New Zealand, a business of insurance that is registered under the laws of the country or territory relating to the business of insurance; and
- 261 Section 91FD amended (Disclosure requirements)** 25
- In section 91FD(1)(bb), replace “correct.” with “correct; and”.
- 261B Section 91G amended (Effect of legislative change on binding ruling)**
- In section 91G, replace “in the ruling.” with “in the ruling. For a limited purpose and period, **section 63F(2)** of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act **2017** overrides this section.” 30
- 261C Section 91GA amended (Applying for ruling on effect of change in legislation)**
- After section 91GA(3), insert:

(4) For a limited purpose and period, **section 63F(2)** of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act **2017** overrides this section.

261D Section 108B amended (Extension of time bars)

(1) In section 108B(3)(d), replace “section 108(1) and (1A)” with “section 108(1), (1A), and (1B)”.

(2) In section 108B(3)(d), replace “section 108(1), (1A), and (1B)” with “section 108(1), (1A), (1B), and (1C)”.

262 Section 110 amended (Evidence of returns and assessments)

In section 110(2), delete “, or section 36A,”.

263 Section 120C amended (Definitions)

(1) In section 120C(1), in the definition of **date interest starts**, paragraph (c)(i)(A), replace “the 15th working day” with “the 10th working day”.

(2) **Subsection (1)** applies for taxable periods ending on or after 1 April 2018.

264 Section 120KE amended (Provisional tax and rules on use of money interest)

(1) In section 120KE(1)(a), delete “, other than in their capacity as trustee.”

(2) Replace section 120KE(1)(e) with:

(e) they are not, at any time in the tax year, a person who has RWT-exempt status.

264B Section 120KBB amended (Interest for most standard method and some estimation method provisional taxpayers)

(1) In section 120KBB(4)(c)(iii), replace “treating section YB 3 of the Income Tax Act 2007” with “treating, for the purposes of the definition of **associated**, section YB 3”.

(2) **Subsection (1)** applies for the 2017–18 and later income years.

264C Section 120KD amended (Provisional tax instalments in transitional years)

(1) After section 120KD(1), insert:

(1B) This section does not apply to a person that section 120KBB applies to.

(2) **Subsection (1)** applies for the 2017–18 and later income years.

264D Section 120KD amended (Provisional tax instalments in transitional years)

(1) In **section 120KD(1B)**, replace “section 120KBB applies to” with “section 120KBB applies to, unless the person is a new provisional taxpayer”.

(2) **Subsection (1)** applies for the 2018–19 and later income years.

264E New section 120LB inserted (Meaning of unpaid tax and overpaid tax for certain transferees under AIM method)

After section 120L, insert:

120LB Meaning of unpaid tax and overpaid tax for certain transferees under AIM method

- (1) This section applies for the purposes of **section RC 35B** of the Income Tax Act 2007 when a provisional taxpayer who uses the AIM method to calculate and pay a provisional tax liability asks the Commissioner to transfer an overpayment of provisional tax to a shareholder who is an employee of the taxpayer.
- (2) For the purposes of determining an amount of unpaid tax, overpaid, or interest under a provision of this Part—
- (a) the total amount transferred to the person for the tax year under **section RC 35B(2)** is pro-rated against all their instalments for the tax year:
- (b) for an amount of unpaid tax or overpaid tax for an instalment, the pro-rated amount referred to in **paragraph (a)** is subtracted from the underpaid amount or added to the overpaid amount, as applicable:
- (c) to the extent to which **paragraph (b)** does not apply for the pro-rated amount, the amount is overpaid tax for the instalment.
- (3) **Subsection (2)** does not apply to a person to whom section 120KBB(2) applies. In these circumstances,—
- (a) for an amount of unpaid tax or overpaid tax for the last instalment for the tax year, the total amount transferred to the person is subtracted from the underpaid amount or added to the overpaid amount, as applicable, under that section:
- (b) to the extent to which **paragraph (a)** does not apply in relation to the total amount transferred, the amount is overpaid tax under section 120KBB(2) for the last instalment.

265 New section 120X inserted (Petroleum miners' tax losses)

- (1) After section 120W, insert:

120X Petroleum miners' tax losses

If a taxpayer allocates an amount to an earlier tax year under section EJ 14 of the Income Tax Act 2007, the amount allocated does not reduce the taxpayer's tax payable for that year for the purpose of this Part.

- (2) **Subsection (1)** applies for a taxpayer and to a tax position—
- (a) taken by the taxpayer in a tax return filed after the date of introduction of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act **2017**; and

- (b) with regard to a reduction under section IS 5(2) of the Income Tax Act 2007 in their tax loss.

266 Section 120X repealed (Petroleum miners’ tax losses)

- (1) Repeal **section 120X**.
 (2) **Subsection (1)** applies for the 2018–19 and later income years. 5

267 Section 125 amended (Certain rights of objection not conferred)

In section 125(j)(iv), replace “36 to 46” with “**23B to 23P**, 36 to 44D”.

268 Section 139A amended (Late filing penalty for certain returns)

- (1) In section 139A(1) replace “and the employer monthly schedule required to be provided under section RD 22(1) to (5) of the Income Tax Act 2007” with “and the employment income information required to be provided under **sections 23E to 23IB**”. 10
- (2) In section 139A(2)(a)(iv), replace “an employer monthly schedule” with “their employment income information”.
- (3) In section 139A(4), replace “employer monthly schedule” with “employment income information”. 15
- (4) In section 139A(5) in the words before paragraph (a), replace “an employer monthly schedule” with “employment income information”.
- (5) Replace section 139A(6) and (7) with:
- (6) **Subsections (7) to (9)** ~~applies~~apply in relation to a late filing penalty when a taxpayer fails to provide employment income information to the Commissioner by a due date when, for the 12-month period before the due date, the taxpayer has delivered on time all the required income information. 20
- (7) Subject to **subsection (9)**, the~~The~~ Commissioner must notify the taxpayer—
 (a) first, that a late filing penalty will be payable for a further failure to provide income information on time: 25
 (b) secondly, that the penalty is payable when a ~~breach~~further failure occurs after the notice referred to in **paragraph (a)** has been given.
- (8) For employment income information, the maximum penalty that may be imposed ~~on the taxpayer for~~in relation to a month, regardless of the number of failures to provide employment income information, is \$250. 30
- (9) Despite **subsection (7)**, a taxpayer is not liable to pay a late filing penalty in relation to employment income information if the Commissioner considers that, in a particular case or class of cases, a penalty should not be imposed. However, the Commissioner’s discretion may be exercised only if— 35
 (a) it is necessary because of resource constraints imposed on the Commissioner during the period of co-existence of 2 Inland Revenue software platforms; and

(b) the taxpayer’s non-compliance is not serious or unreasonable.

269 Section 139AA amended (Non-electronic filing penalty)

- (1) In section 139AA(1)(a), replace “section RD 22(2) and (2B) of the Income Tax Act 2007” with “**section 23E**”.
- (2) After section 139AA(1)(a), insert: 5
 (aba) a person who is required to provide investment income information to the Commissioner under **sections 25F to 25L and 25N25O**; and
- (3) After section 139AA(1)(ac), insert:
 (ad) a registered person; and
- (4) In section 139AA(2), replace “A person who is an employer, a portfolio investment entity, a portfolio investor proxy, or a PAYE intermediary” with “The person”. 10
- (5) In section 139AA(3), replace “under section 36B(1) to furnish the employer monthly schedule” with “under **sections 23D(5) and 23G** to provide their employment income information”. 15
- (6) Replace section 139AA(4) with:
 (4) For employment income information, the maximum penalty that may be imposed ~~for~~in relation to a month, regardless of the number of failures to provide employment income information, is the greater of \$250 or \$1 for each employee whose employment income information is not in the prescribed electronic form or delivered by ~~means of~~ the prescribed means of electronic communication at any time in the month. 20
- (7) After section 139AA(4), insert:
 (5) For GST purposes, the non-electronic filing penalty is \$250.
- (8) After **section 139AA(5)**, insert: 25
 (6) For investment income information, the non-electronic filing penalty is \$250.
- (7) Despite **subsection (2)**, a person is not liable to pay a non-electronic filing penalty if the Commissioner considers that, in a particular case or class of cases, a penalty should not be imposed. However, the Commissioner’s discretion may be exercised only if— 30
 (a) it is necessary because of resource constraints imposed on the Commissioner during the period of co-existence of 2 Inland Revenue software platforms; and
 (b) the taxpayer’s non-compliance is not serious or unreasonable.

270 Section 141AA amended (Shortfall penalty if non-resident contractor relieved from all liability to pay tax on contract payment) 35

In section 141AA(1) and (3),—

- (a) replace “each return period” with “each month” in each place where it appears:
- (b) replace “an employer monthly schedule” with “employment income information” in each place where it appears.

271 Section 141ED amended (Not paying employer monthly schedule amount) 5

(1) In section 141ED, replace the section heading with “**Penalty for unpaid amounts of employers’ withholding payments**”.

(2) Replace section 141ED(1) with:

(1) A taxpayer is liable to pay a shortfall penalty (the **employers’ withholding payment penalty**) if— 10

(a) the taxpayer—

(i) provides employment income information to the Commissioner under **subpart 3C**; and

(ii) is required to pay to the Commissioner an amount of tax (the **required amount**) under **section RD 4(1)** of the Income Tax Act 2007; and 15

(iii) fails to pay some or all of the required amount (the **unpaid amount**) to the Commissioner by the due date; and

(b) the Commissioner, after the due date for the payment of the required amount, gives the taxpayer notice (the **Commissioner’s notice**)— 20

(i) that the taxpayer is liable to pay a penalty for failing to pay the unpaid amount by the due date and of how the penalty is calculated; and

(ii) of the circumstances in which further penalties will be imposed and of how a further penalty will be calculated; and 25

(iii) of actions that the taxpayer may take to avoid the imposition of further penalties; and

(c) **subsection (3)** does not apply to the taxpayer.

(3) In section 141ED(2), replace “the returned amount” with “the required amount”. 30

(4) In section 141ED(3),—

(a) replace “a penalty for not paying employer monthly schedule amount” with “an employers’ withholding payment penalty”:

(b) replace paragraph (a)(i) with:

(i) appointed after the end of the month in which the employment income information is provided to the Commissioner; and 35

(5) In section 141ED(4),—

- (a) replace “A penalty payable for not paying employer monthly schedule amount” with “An employers’ withholding payment penalty payable”;
- (b) in paragraph (a), replace “the returned amount” with “the required amount”.
- (6) In section 141ED(5), replace “the penalty for not paying employer monthly schedule amount” with “the employers’ withholding payment penalty”. 5
- (7) In section 141ED(5B),—
- (a) replace “the returned amount” with “the required amount”;
- (b) replace “the employer monthly schedule” with “the employment income information”. 10
- (8) In section 141ED(6), replace “1 penalty for not paying employer monthly schedule amount arising from an employer monthly schedule ” with “1 employers’ withholding payment penalty arising from the employment income information”.
- (9) In section 141ED(7), replace “the returned amount” with “the required amount”. 15

271B Section 141JA amended (Application of Part 9 to non-filing taxpayers)

In section 141JA(a), replace “section RD 4(2)” with “**section RD 4(4)**”.

272 Section 142 amended (Due date for payment of late filing penalty)

- (1) In section 142(1), replace “an employer monthly schedule” with “employment income information”. 20
- (2) Replace section 142(1A) with:
- (1A) The due date for the payment of a late filing penalty for failing to provide employment income information is 30 days after the end of the month in which the employer is required to deliver their employment income information to the Commissioner. 25
- (3) In section 142(2), delete “, **employer monthly schedule**,”.

273 Section 142A amended (New due date for payment of tax that is not a penalty)

- (1A) Before section 142A(1), insert: 30
- (1A) This section applies for the transitional period described in **subsection (10)**.
- (1) ~~In section 142A(1), replace “This section applies” with “This section applies for the transitional period described in **subsection (6)**”.~~
- (2) After section 142A(5), insert:
- (6) ~~For the purposes of **subsection (1)**, the transitional period is the period of co-existence of 2 Inland Revenue software platforms, as described in section 227B, that starts on the date on which the Taxation (Annual Rates for 2017–18,~~ 35

Employment and Investment Income, and Remedial Matters) Act **2017** receives the Royal assent and ends on the date by which the last Order in Council made under **section 142AB(5)** brings that section into force for a particular tax type.

(7) **Section 142AB** overrides this section, but this section continues to apply for an amount of tax in relation to which an incremental late payment penalty is payable under section 139B. 5

(2) After section 142A(9), insert:

(10) For the purposes of **subsection (1)**, the transitional period is the period of co-existence of 2 Inland Revenue software platforms that starts on the date on which the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act **2017** receives the Royal assent and ends on the date by which the last Order in Council made under **section 142AB(5)** brings that section into force for a particular tax type. 10

(11) **Section 142AB** overrides this section, but this section continues to apply for an amount of tax in relation to which an incremental late payment penalty is payable under section 139B. 15

274 New section 142AB inserted (New due date for new and increased assessments)

After section 142A, insert: 20

142AB New due date for new and increased assessments

(1) This section applies, subject to the particular commencement dates for different tax types described in **subsection (5)**, when the Commissioner makes either of the following assessments for a taxpayer, other than an assessment (a **default assessment**) made in the absence of a return and to which section 106(1) applies: 25

(a) an assessment (the **new assessment**) of tax for the taxpayer, if they have not been assessed earlier for the tax:

(b) an amended assessment (the **increased assessment**)—

(i) of an amount of tax that is more than the amount for which the taxpayer is liable immediately before the increased assessment; and 30

(ii) made less than 30 days before, or on or after, the due date for the tax for which the taxpayer is liable immediately before the increased assessment; and 35

(iii) that is not an increased assessment to a default assessment.

(2) The Commissioner must—

(a) fix a date that is 30 or more days after the date of the notice of the assessment for the payment of—

- (i) the tax under a new assessment:
(ii) the increase of tax under an increased assessment; and
(b) notify the taxpayer of the date in the notice of assessment.
- (3) **Subsection (2)** does not apply—
- (a) to an amount of provisional tax that remains unpaid on an instalment date; or 5
(b) ~~in relation to a tax type for which an incremental late payment penalty under section 139B is payable; or~~
(c) when the Commissioner has notified the taxpayer before the due date for the payment of the tax that **subsection (2)** will not apply to the tax as calculated by the taxpayer or to an amount of tax estimated by the taxpayer; or 10
(d) when the Commissioner considers that setting a new due date may prejudice the Commissioner’s ability to recover the tax or increased tax.
- (4) In this section, **tax** does not include a civil penalty. 15
- (5) This section comes into force on a date appointed by the Governor-General by Order in Council, and 1 or more orders may be made appointing different dates for different tax types and for different purposes. To the extent to which it is not previously brought into force, this section comes into force on 1 April 2023. 20
- (6) For a tax type in relation to which an order is made under **subsection (5)**, this section applies to a new assessment for the tax type or an increased assessment for the tax type and **section 142A** does not apply for that tax type.
- 275 Section 142G replaced (Due date for payment of non-electronic filing penalty)** 25
- (1) In section 142G, insert as subsection (2):
(2) For GST purposes, a non-electronic filing penalty is due and payable 30 days after the end of the month in which the registered person is required to provide the GST information to the Commissioner.
- (2) Replace **section 142G** with: 30
- 142G Due date for payment of non-electronic filing penalties**
- A non-electronic filing penalty under **section 139AA** is due and payable,—
- (a) for employment income information, 30 days after the end of the month in which the employer is required to provide to the Commissioner the information in the prescribed electronic form or by means of the prescribed electronic communication: 35
(b) for GST purposes, 30 days after the end of the month in which the registered person is required to provide to the Commissioner the GST infor-

mation in the prescribed electronic form or by means of the prescribed electronic communication.

- (3) After **section 142G(b)**, insert:
- (c) for investment income information, 30 days after the end of the month in which the payer of investment income is required to provide to the Commissioner the information in the prescribed electronic form or by means of the prescribed electronic communication. 5

275B Section 157 amended (Deduction of tax from payments due to defaulters)

In section 157(10), in the definition of **income tax**, paragraph (c), replace “section RD 4(2)(a)” with “**section RD 4(4)**”. 10

276 Section 173L amended (Transfer of excess tax within taxpayer’s accounts)

- (1) In section 173L(2)(a), replace “a day after the end of the GST return period in which the refund arose” with “the applicable date set out in **subsection (2B)**”. 15
- (2) After section 173L(2), insert:
- (2B) For the purposes of **subsection (2)(a)**, the applicable date is—
- (a) when the taxpayer files their return before the due date, the earlier of—
- (i) the day after the date on which the return is filed:
- (ii) the day after the end of the GST return period in which the refund arose: 20
- (b) when the taxpayer files their return on the due date, the day after the end of the GST period in which the refund arose:
- (c) when the taxpayer files their return after the due date, the day after the date on which the return is filed.
- (3) **Subsections (1) and (2)** apply for taxable periods ending on or after 1 April 2018. 25

277 Section 183A amended (Remission for reasonable cause)

- (1) In section 183A(1)(i), replace “a penalty for not paying employer monthly schedule amount” with “an employers’ withholding payment penalty”. 30
- (2) In section 183A(1A)(b), replace “the tax return or an employer monthly schedule, or not furnishing an employer monthly schedule” with “the tax return or their employment income information, or not furnishing their employment income information”. 30

277B Section 183C amended (Cancellation of interest)

- (1) Replace section 183C(4B) and (4C) with: 35
- (4B) **Subsection (4C)** applies, if—

- (a) the Commissioner issues another statement of account (the **second statement**) to a taxpayer within 30 days of a statement of account described in subsection (4) (the **first statement**); and
- (b) the first and second statements are for a START tax type and any penalties related to the START tax type; and 5
- (c) the START tax type and any related penalties in the first statement, together with any interest payable under Part 7 in relation to the period before the date of the first statement is paid to the Commissioner on or before the 30th day after the date on which the first statement is issued, or the due date of the tax, whichever occurs first. 10
- (4C) The Commissioner shall cancel the taxpayer’s liability to pay interest under Part 7 in relation to the START tax type and related penalties for the period commencing on the day after the date on which the first statement is issued and ending with the day on which the payment described in **subsection (4B)(c)** is made. 15
- (4D) **Subsection (4E)** applies, if—
- (a) the Commissioner issues another notice of assessment (the **second assessment**) to a taxpayer within 30 days of a notice of assessment described in subsection (1) or (3) (the **first assessment**); and
- (b) the first and second assessments are for a START tax type and any penalties related to the START tax type; and 20
- (c) the START tax type and any related penalties in the second assessment, together with any interest payable under Part 7 in relation to the period before the date of the second assessment is paid to the Commissioner on or before the 30th day after the date on which the second assessment is issued, or the due date of the tax, whichever occurs first. 25
- (4E) The Commissioner shall cancel the taxpayer’s liability to pay interest under Part 7 in relation to the START tax type and related penalties for the period commencing on the day after the date on which the second assessment is issued and ending with the day on which the payment described in **subsection (4D)(c)** is made. 30
- (2) **Subsection (1)** applies for a second statement or assessment issued by the Commissioner on or after 1 April 2018.
- 278 Section 183D amended (Remission consistent with collection of highest net revenue over time)** 35
- In section 183D(1)(bd), replace “a penalty for not paying employer monthly schedule amount” with “an employers’ withholding payment penalty”.

278B	Section 183F amended (Small amounts of penalties and interest not to be charged)	
(1)	<u>In section 183F(1)(a), replace “amount of income tax or ancillary tax” with “amount of tax”.</u>	
(2)	<u>In section 183F(1)(b), replace “amount of income tax or ancillary tax” with “amount of tax”.</u>	5
279	Section 183F amended (Small amounts of penalties and interest not to be charged)	
	In section 183F(1)(c), replace “a penalty for not paying employer monthly schedule amount” with “an employers’ withholding payment penalty”.	10
280	Section 185 amended (Payment out of Crown Bank Account)	
(1)	In section 185(1)(f), replace “Act; or” with “Act—”.	
(2)	Repeal section 185(1)(g).	
281	Sections 185C and 185D repealed	
	Repeal sections 185C and 185D.	15
282	New sections 227C and 227D inserted	
	After section 227B, insert:	
227C	Transitional provision: voluntary application of employment income information provisions	
(1)	This section applies for the purposes of this Act and the Income Tax Act 2007, when an employer or PAYE intermediary— <u>other than an employer who provides their employment income information by non-electronic means,</u> is required to provide an employer monthly schedule and a PAYE income payment form in the period that starts on 1 April 2018 and ends on 31 March 2019 (the transitional period).	20 25
(2)	Despite the commencement provisions in the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2017 (the amendment Act) relating to the provision of employment income information, the application of new thresholds, and the consequential amendments to the KiwiSaver Act 2006, the employer may choose to apply the provisions in the amendment Act for the transitional period, or a part of it, in place of the provisions in this Act and the Income Tax Act 2007 for the delivery of the employer monthly schedule and PAYE income payment form.	30
(2B)	<u>For the purposes of subsection (2), an employer who chooses to report their employment income information using the provisions of the amendment Act must also apply the other relevant provisions relating to the delivery of that information or to the interpretation of those provisions, whether or not the relevant provision is listed in subsection (6).</u>	35

- (3) When an employer makes an election under **subsection (2)**, they must include in their employment income information the required items relating to a benefit received by an employee or former employee under **section CE 1(1)(d)** of the Income Tax Act 2007, applying the provisions of the amendment Act in relation to all benefits under employee share schemes, as defined in the amendment Act, received by employees or former employees on or after the date that is 20 days before the date of their election. 5
- (4) For the purposes of ~~**subsections (2) and (3)**~~, an employer who chooses to report their employment income information using the provisions of the amendment Act must also apply the other relevant provisions relating to the delivery of that information or to the treatment of that benefit, as applicable. For the purposes of **subsection (3)**, for an item relating to a benefit under an employee share scheme received by an employee in the part of the transitional period that falls before the date referred to in **section 2(25)** of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act **2017**, the ESS deferral date referred to in **section CE 2(9)** of the Income Tax Act 2007 is the 20th day after the employee receives the benefit. 10
- (5) For the purposes of the application of a late filing penalty under **section 139A(6) to (8)**, the rules relating to further failures apply for the transitional period as if it were a continuation of the previous period or periods. 15
- (6) For the purposes of **subsections (2) and (3)**, and despite the relevant commencement provisions in **section 2**,— 20
- (a) ~~**sections 13, 104, 109, 110, 131, 135, 142, 146 to 148, 169, 171(19), 191, 198, 199, 227, 236, 254, 267 to 271, 274, 276, 283(a) to (c), 286 to 291, and 295 to 299**~~**sections 11(1B) and (2)(ab), 13, 105, 110, 111, 132, 136, 143, 147 to 149, 169, 170, 172(14), (17), (19), (40), and (41), 187(1B), (4), (12), and (24), 192, 197, 199 to 201, 204, 205, 228, 236, 237, 255, 268 to 272, 275, 277 to 279, 284(1)(a) to (c), 286 to 292, 295 to 300, and 314B** of the amendment Act are treated as having a commencement date of 1 April 2018 and as applying for, or in relation to, an employer from the date on which they choose to apply the relevant provisions: 25
- (b) the due dates for employment income information under **sections 23E to 23I** do not apply in the transitional period for the purposes of determining a penalty under **section 139A(6) to (8) or 142**. 30
- (7) An employer who makes an election under **subsection (2)** may not revert to the provisions for the delivery of the employer monthly schedule and PAYE income payment form under this Act or the Income Tax Act 2007, and must continue to apply the provisions of the amendment Act for the remainder of the transitional period unless the employer and Commissioner agree otherwise. As a consequence, the early commencement and application dates set out in **subsection (6)** no longer apply. 35 40

227D Transitional provision for certain filing requirements of employers

- (1) For the purposes of this Act and the Income Tax Act 2007, when an employer or PAYE intermediary is required to provide an employer monthly schedule and a PAYE income payment form ~~in relating to~~ the last month of the transitional period referred to in **section 227C(1)**, ~~the period for providing the schedule and form is extended to 30 April 2019~~ the usual rules apply for the delivery of the schedule and form despite the fact that the transitional period is expressed to end on 31 March 2019. This subsection does not apply in relation to an obligation referred to in **subsection (2)**. 5
- (1B) For the purposes of this Act and the Income Tax Act 2007, when an employer chooses to apply the provisions in the amendment Act for the transitional period under **section 227C(2)** in a month (the **month of the election**), they must provide an employer monthly schedule and a PAYE income payment form relating to the previous month by the due date in the month of the election. 10 15
- (2) For the purposes of this Act and the Income Tax Act 2007, in relation to a benefit received by an employee or former employee under an employee share scheme for the period that starts on 16 March 2019 and ends on 31 March 2019, an employer to whom section RD 4(1)(b) of the Income Tax Act 2007 applies must— 20
- (a) apply the provisions in the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act **2017** in relation to the tax treatment of the benefit; and
 - (b) provide their employment income information in relation to the benefit under the provisions in **subpart 3C** rather than including the information in the employer monthly schedule and PAYE income payment form. 25

283 New section 227E inserted (Transitional provision: application of investment income information provisions)

After **section 227D** insert:

227E Transitional provision: application of investment income information provisions

- (1) This section applies for the purposes of this Act and the Income Tax Act 2007 to a person who pays an amount of investment income in the period that starts on 1 April 2019 and ends on 31 March 2020 (the **transitional period**). 30
- (2) Despite the commencement provisions in the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act **2017** (the **amendment Act**) for the provision of investment income information, a person may choose to apply the provisions of the amendment Act relating to the delivery of investment income information under subpart 3E and the correction of errors under **section 25P** for the transitional period or a part of it. 35 40

- (3) A person who makes an election under **subsection (2)** may not revert to the provisions in this Act and the Income Tax Act 2007 relating to the returns of income, and must continue to apply the relevant provisions of the amendment Act for the remainder of the transitional period, unless the person and Commissioner agree otherwise.

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284 New schedules inserted

- (1) After schedule 2 in the Tax Administration Act 1994, insert as set out in **schedule 2** of this Act the following schedules:
- (a) schedule 3 (Record-keeping requirements):
 - (b) schedule 4 (Reporting of employment income information):
 - (c) schedule 5 (Certain codes and rates):
 - (d) schedule 6 (Reporting of investment income information).
- (2) In **schedule 3**, in the empowering provisions, replace “25, 26, 49, 51” with “**22AAB**”.

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Part 4

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Amendments to other enactments

KiwiSaver Act 2006

285 KiwiSaver Act 2006

Sections 286 to 301 amend the KiwiSaver Act 2006.

286 Section 4 amended (Interpretation)

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- (1) In section 4(1),—
- (aa) in the definition of **employer**, paragraph (b), replace “or RD 4(2)” with “or **RD 4(4)**” in each place where it appears:
 - (a) repeal the definition of **employer monthly schedule**:
 - (b) insert, in appropriate alphabetical order:

employment income information has the meaning set out in **section 23C** of the Tax Administration Act 1994
 - (c) insert, in appropriate alphabetical order:

KiwiSaver status means the information that an employee must give their employer in a form authorised by the Commissioner, as follows:

 - (a) whether or not they are a member of an existing KiwiSaver scheme or are choosing to opt in to a scheme:
 - (b) if they are an existing member,—
 - (i) their deduction rate:
 - (ii) whether they are on a contribution holiday:

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- (iii) whether they wish to cease deductions under section 112B(1) of the KiwiSaver Act 2006:
- (iv) whether they have chosen to opt out of a scheme:
- (c) if they are a new member, the information as required by the Commissioner, including the nomination of a contribution rate 5
- (2) In section 4(1), repeal the definition of **KiwiSaver deduction notice**.
- (3) In section 4(1), repeal the definition of **remittance certificate**.
- 287 Section 17 amended (How to opt out)**
- Replace section 17(5) with:
- (5) An employer who receives an opt-out notice must give notice of that opt-out to the Commissioner no later than the time the employer is next required to provide ~~that their employment income information for payday reporting is required to be provided~~ to the Commissioner under **section RD 22** of the Income Tax Act 2007 and **sections 23E to 23I** of the Tax Administration Act 1994. 10
- 288 Section 22 amended (Employees giving information to employers)** 15
- (1) Replace section 22(1)(c)(i) with:
- (i) notify his or her employer of their KiwiSaver status; or
- (1B) In section 22(2), replace “given as soon” with “given, in a form authorised by the Commissioner, as soon”.
- (2) In section 22(3), replace “may give their temporary employer a KiwiSaver deduction notice” with “may notify their temporary employer of their KiwiSaver status”. 20
- 289 Section 23 amended (Employers must give information to Commissioner)**
- In section 23(2),—
- (a) replace “an employer monthly schedule” with “their employment income information for payday reporting”: 25
- (b) replace “sections 24J and 24P” with “**sections 23E to 23I**”.
- 290 Section 34 amended (Opting in by person 18 years or more)**
- (1) In section 34(1)(b), replace “give his or her employer a KiwiSaver deduction notice” with “notify his or her employer of a change in their KiwiSaver status”. 30
- (2) In section 34(2), replace “by giving his or her employer a KiwiSaver deduction notice” with “by notifying his or her employer of a change in their KiwiSaver status”.
- (3) In section 34(4),—
- (a) replace “an employer monthly schedule” with “their employment income information for payday reporting”: 35

(b) replace “sections 24J and 24P” with “**sections 23E to 23I**”.

291 Section 42 amended (Employer must supply information pack to certain employees)

In section 42(1)(b), replace “giving the employer the KiwiSaver deduction notice” with “notifying his or her employer of a change in their KiwiSaver status”. 5

292 Section 60 amended (Application of subpart)

In section 60(1)(b), replace “has given the employer a KiwiSaver deduction notice” with “has notified his or her employer of their KiwiSaver status and of any changes in that status”. 10

293 Section 64 amended (Contribution rate)

~~Insert after~~After section 64(3), insert:

(3B) For a contribution rate under subsection (1)(a), when a change occurs to a rate in this Act, or in regulations made under this Act, affecting the contribution that must be deducted from a payment of salary or wages, the calculation of the amount of the contribution must be made at the rate applying on the day on which the salary or wages are paid. 15

294 Section 67 amended (PAYE rules apply to deductions)

(1) In section 67(3)(a), replace “RD 10, RD 16” with “RD 10, **RD 10B, RD 13, RD 16**”. 20

(2) In section 67(3)(a), replace “sections 24B to 24P” with “**subpart 3D and schedule 5**”.

295 Section 73 amended (Deductions entered in and paid out of holding account)

(1) In section 73(1)(b), replace “shown on an employer monthly schedule delivered under section RD 4 of the Income Tax Act 2007” with “included in employment income information provided under **section RD 22** of the Income Tax Act 2007”. 25

(2) In section 73(2), replace “that monthly schedule” with “that employment income information”. 30

(3) In section 73(6), replace “entered on an employer monthly schedule” with “included in employment income information”.

296 Section 93 amended (Employer contributions paid via Commissioner)

(1) In section 93(2) replace “a PAYE payment form” with “the relevant employment income information”. 35

(1B) In section 93(4), replace “and RD 4(2)” with “and **RD 4(4)**”.

- (2) In section 93(5), replace “on the employer monthly schedule” with “in their employment income information”.

297 Section 97 replaced (Commissioner must give notice if employer contributions not remitted)

Replace section 97 with:

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97 Commissioner must give notice if employer contributions not remitted

- (1) This section applies for a PAYE period when—

- (a) an employer is required to provide a return in relation to an amount of employer contribution under this subpart, and includes a reference to the payment in their employment income information under the Tax Administration Act 1994; and
- (b) the Commissioner does not receive the payment in full by the due date for the payment.

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- (2) The Commissioner must notify the employer that the payment has not been received.

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298 Section 98 amended (Short payments by employers if not enough money remitted to Commissioner to cover all of employees’ deductions and employer contributions)

- (1) In section 98(1),—

- (a) in paragraph (a), replace “on either or both of a remittance certificate or an employer monthly schedule” with “in their employment income information”;
- (b) in paragraph (b), replace “on either or both of the remittance certificate or employer monthly schedule” with “in the employment income information”.

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- (2) In section 98(2), replace “on the remittance certificate and employer monthly schedule” with “in their employment income information”.

299 Section 98A amended (Quantifying short payments for the purposes of Income Tax Act 2007 and Tax Administration Act 1994)

In section 98A(b), replace “shown on either or both of a PAYE payment form and an employer monthly schedule” with “included in their employment income information”.

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300 Section 99 amended (Short payments if not enough employer contribution remitted to cover all employees)

- (1) In section 99(1),—

- (a) in paragraph (a), replace “on a remittance certificate or employer monthly schedule” with “in their employment income information”:

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- (b) in paragraph (b), replace “on the remittance certificate and employer monthly schedule” with “in the employment income information”.
- (2) In section 99(2), replace the items in the formula with:
- a is the total employer contributions received by the Commissioner under this subpart for all of the employer’s employees for the month: 5
- b is the employer contribution included in their employment income information for the relevant employee for the month referred to in item a:
- c is the total employer contributions included in their employment income information for all the employer’s employees for the month referred to in item a. 10
- 301 Section 101D amended (Compulsory employer contribution amount: general rule)**
- (1) Replace section 101D(4) with:
- (4) **CEC rate** is 3%. 15
- (2) After section 101D(4), insert:
- (4B) When a change occurs to the CEC rate affecting the amount of a compulsory employer contribution, the calculation of the amount of the contribution must be made at the rate applying on the day on which the salary or wages are paid.

Student Loan Scheme Act 2011

- 302 Student Loan Scheme Act 2011** 20
- Sections 303 to 306** amend the Student Loan Scheme Act 2011.
- 303 Section 34 amended (Repayment codes for New Zealand-based borrowers who derive salary or wages)**
- In section 34(2)(a), replace “section 24F” with “**section 24D(a)** and **schedule 5, part B, clause 1**”. 25
- 304 Section 37 amended (Deduction rates that apply to standard deductions from salary or wages)**
- ~~Insert after~~After section 37(3), insert:
- (3B) When a change occurs to a rate in this Act, or in regulations made under this Act, affecting the deduction from primary employment earnings paid to the borrower or secondary employment earnings paid to the borrower, the calculation of the amount of the deduction must be made at the rate applying on the day on which the employment earnings are paid to the borrower. 30
- 304B Section 84 amended (Due dates for payment of interim payments)**
- In section 84(2)(a), replace “a GST ratio” with “a GST ratio, or the AIM method provided in section RC 5(5B) of the Income Tax Act 2007,”. 35

- 305 Section 202 amended (Provisions of Tax Administration Act 1994 and Income Tax Act 2007 to apply to this Act)**
- In section 202,—
- (a) replace “24F, 24H” with “**section 24D(a)**”:
 - (b) replace “and 114” with “114, and **schedule 5, part A, clause 4 and part B, clause 1**”.
- 306 Schedule 2 amended (Application of PAYE rules for purposes of section 70)**
- (1) In schedule 2, clause 2(a)(i), replace “RD 8 to RD 10, RD 13B” with “RD 8 to RD 10, **RD 13**, RD 13B”.
 - (2) ~~In schedule 2, clause 2(a)(ii), replace “sections 24K to 24M and 24O” with “**sections 24F, 24G, and 56B**”.~~
 - (3) In schedule 2, replace clause 2(a) with:
 - (a) the following do not apply to salary or wage deductions:
 - (i) sections BC 1, **LA 6**, RC 2(1), RC 6, RC 7, RC 16, RC 17, **RD 8 to RD 10B, RD 13B, RD 17(2) and (3)**, and RD 18 to RD 20 of the Income Tax Act 2007:
 - (ii) **sections 24F, 24G, 24GB, and 24GC, and schedule 5, part C** of the Tax Administration Act 1994.
- Goods and Services Tax Act 1985*
- 307 Goods and Services Tax Act 1985**
- Sections 308 to 311** amend the Goods and Services Tax Act 1985.
- 308 Section 2 amended (Interpretation)**
- In section 2(1), insert in appropriate alphabetical order:
- Pharmac** is defined in section 25 for the purposes of that section
- Pharmac agreement** is defined in section 25 for the purposes of that section
- pharmaceutical** is defined in section 25 for the purposes of that section
- 309 Section 2A amended (Meaning of associated persons)**
- After section 2A(1)(h), insert:
- (hb) A trustee of a trust and a person who has a power of appointment or of removal of the trustee, except if the person—
 - (i) holds the power as a provider of professional services; and
 - (ii) is subject to a professional code of conduct, and disciplinary process intended to enforce compliance with the code, of an approved organisation as that term is defined in section 3(1) of the

	Tax Administration Act 1994, for such providers of professional services; and	
	(iii) has not benefited from the trust; and	
	(iv) is not eligible to benefit from the trust:	
309B	<u>Section 20H amended (Goods and services tax incurred in making financial services for raising funds)</u>	5
	In section 20H(1), replace “section 20(3)(hc)” with “section 20(3)(hd)”.	
310	<u>Section 25 amended (Credit and debit notes)</u>	
(1)	In section 25(1)(b), after “has been altered”, insert “(except as provided in sub-section (1B))”.	10
(2)	After section 25(1), insert:	
(1B)	For the purposes of subsection (1)(b), the previously agreed consideration for the supply of a pharmaceutical is not altered if part of the consideration for the supply has been rebated to Pharmac (acting on its own account or as an agent for a public authority) under a Pharmac agreement.	15
(3)	After section 25(6), insert:	
(7)	In this section—	
	Pharmac means the Pharmaceutical Management Agency established by section 46 of the New Zealand Public Health and Disability Act 2000	
	Pharmac agreement means an agreement to which Pharmac is a party and under which Pharmac agrees to list a pharmaceutical on the pharmaceutical schedule as defined in section 6 of the New Zealand Public Health and Disability Act 2000	20
	pharmaceutical means a pharmaceutical as defined in section 6 of the New Zealand Public Health and Disability Act 2000.	25
(4)	Subsections (1), (2), and (3) apply in relation to a rebate that is paid on or after 1 July 2018.	
310B	<u>Section 25AB amended (Consequences of change in contract for secondhand goods)</u>	
(1)	<u>In section 25AB(1), words before paragraph (a), after “registered person”, insert “for which the registered person returns input tax determined under section 3A(3)”.</u>	30
(2)	<u>In section 25AB(1)(d), replace “debit note” with “credit note”.</u>	
311	<u>Section 53 amended (Registered person to notify change of status)</u>	
	Replace section 53(1)(ca) with:	35
	(ca) any change whereby that registered person now satisfies the conditions of section 15(4):	

Child Support Act 1991

312 Child Support Act 1991

Sections 313 and 314B amend the Child Support Act 1991.

313 Section 89D amended (Exemption for long-term prisoners)

Replace section 89D(1)(a) with:

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- (a) the person’s income for the whole period, or that part, will be or was nil or will include or included no income other than income from—
 - (i) investments:
 - (ii) employment under section 66 of the Corrections Act 2004; and

314 Section 89F amended (Exemption does not apply at any time during child support year if income criteria not met at any time during relevant period)

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In section 89F(1)(a)(ii), replace “investments” with “investments, or employment under section 66 of the Corrections Act 2004,”.

314B Section 163 amended (Payment of deductions to Commissioner)

Replace section 163(1) with:

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- (1) A payer who has made a deduction under this Part from money payable to a liable person must—
 - (a) pay to the Commissioner the sum deducted to the credit of the liable person by the date required by **section RD 4** of the Income Tax Act 2007; and
 - (b) provide the Commissioner with the employment income information referred to in **section RD 22** of that Act and **sections 23E to 23H** of the Tax Administration Act 1994 by the date set out in that section.

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Accident Compensation Act 2001

314C Accident Compensation Act 2001

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Sections 314D to 315 amend the Accident Compensation Act 2001.

314D Section 6 amended (Interpretation)

In section 6,—

- (a) in the definition of **employee**, paragraph (b), replace “section RD 3(2) to (4)” with “**section RD 3B or RD 3C**”;
- (b) in the definition of **employer**, paragraph (a)(ii), replace “section RD 3(2) to (4)” with “**section RD 3B or RD 3C**”.

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314E Section 15 amended (Earnings as a shareholder-employee)

In section 15(2)(b), replace “section RD 3(2) to (4)” with “**section RD 3B or RD 3C**”.

314F Section 246 amended (Information available to Corporation)

In section 246,—

(a) in subsection (1), replace “section RD 3(2) to (4)” with “**section RD 3B or RD 3C**”:

(b) in subsection (3), replace “section RD 3(2) to (4)” with “**section RD 3B or RD 3C**”:

(c) in subsection (4), replace “section RD 3(2) to (4)” with “**section RD 3B or RD 3C**”:

(d) in subsection (4A)(a), replace “section RD 3(2) to (4)” with “**section RD 3B or RD 3C**”:

(e) in subsection (4A)(b), replace “section RD 3(2) to (4)” with “**section RD 3B or RD 3C**”.

315 Schedule 4 amended (Deductions on account of earner levies)

In schedule 4, clause 9, replace “sections 24B to 24P” with “**subpart 3D and schedule 5**”.

*Income Tax Act 2004***315B Income Tax Act 2004**

Sections 315C and 316 amend the Income Tax Act 2004.

315C Section CD 33 amended (Available capital distribution amount)

(1) In section CD 33(9)(a), replace “the adjusted tax value” with “for property that is a building for which no depreciation loss arises under section EE 41(2) and (3) (Effect of disposal or event), the adjusted tax value”.

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

316 Section EA 2 of the Income Tax Act 2004 amended (Other revenue account property)

(1) In section EA 2(1)(e) of the Income Tax Act 2004, replace “sections EJ 11 to EJ 18” with “sections DT 1, DT 5, and EJ 11 to EJ 18”.

(2) Replace section EA 2(1)(f) of the Income Tax Act 2004 with:

(f) property under a specified lease or a lease to which section EJ 9 (Personal property lease payments) applies:

Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017

316B Section 2 amended (Commencement)

- (1) Repeal section 2(5).
- (2) In section 2(6), delete “386(1) and (2),”. 5
- (3) In section 2(32), replace “367” with “367(1) and (2)”.

Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017

316C Section 32 repealed (Section LA 6 amended (Remaining refundable credits: PAYE, RWT, and certain other items)) 10

Repeal section 32 of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017.

316D Section 57 repealed (New section 120LB inserted (Meaning of unpaid tax and overpaid tax for tax credit transferees under AIM method))

Repeal section 57 of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017. 15

Health and Safety at Work Act 2015

316E Section 201 amended (Funding levy)

In section 201(2)(c) of the Health and Safety at Work Act 2015, replace “section RD 3(2) to (4)” with “section RD 3B or RD 3C”. 20

Compensation for Live Organ Donors Act 2016

316F Schedule 2 amended (Setting rate of earnings compensation)

In schedule 2, clause 1(1) of the Compensation for Live Organ Donors Act 2016,—

- (a) in the definition of **employee**, replace paragraph (b) with: 25
- (b) **any income to which section RD 3B or RD 3C of the Income Tax Act 2007 applies**
- (b) in the definition of **employee**, replace paragraph (a)(ii) with:
 - (ii) **any income to which section RD 3B or RD 3C of the Income Tax Act 2007 applies; but** 30

Regulations

317 Income Tax (Payroll Subsidy) Regulations 2006

Revoke the Income Tax (Payroll Subsidy) Regulations 2006.

318 Anti-Money Laundering and Countering Financing of Terrorism (Class Exemptions) Notice 2014

In the schedule to the Anti-Money Laundering and Countering Financing of Terrorism (Class Exemptions) Notice 2014, part 3, clause 2, in the definition of **PAYE intermediary**, delete “(and includes a PAYE intermediary who is approved as a listed PAYE intermediary under section 15G of that Act)”. 5

319 Accident Compensation (Earners’ Levy) Regulations 2017

In regulation 4(1)(d) of the Accident Compensation (Earners’ Levy) Regulations 2017, replace “for pay periods ending” with “paid, or treated as paid.”.

320 Income Tax (Employment-related Remedial Payments) Regulations 2017 10

Revoke the Income Tax (Employment-related Remedial Payments) Regulations 2017.

Schedule 1
**Consequential amendments to Income Tax Act 2007 related to
trustee capacity**

s 185

Section CQ 5 amended (When FIF income arises)	5
In section CQ 5(1)(d), delete “and not acting as a trustee”.	
Section DG 3 amended (Meaning of asset for this subpart)	
In section DG 3(3), delete “and, for the purposes of this subpart, a reference in the definition of close company to a natural person includes a reference to a trustee”.	
Section DG 14 amended (Interest expenditure: non-corporate shareholders)	10
In section DG 14(1)(b)(i), delete “, other than a company acting as a trustee”.	
In section DG 14, in the list of defined terms, delete “trustee”.	
Section DN 6 amended (When FIF loss arises)	
In section DN 6(1)(d), delete “and not acting as a trustee”.	
Section EX 68 amended (Measurement of cost)	15
In section EX 68(1)(a), delete “natural person”.	
Section FE 3 amended (Interest apportionment for individuals)	
In section FE 3(1)(a), delete “other than a trustee”.	
Section FE 4 amended (Some definitions)	
In section FE 4(1), in the definition of excess debt entity , paragraph (c), delete “other than a person acting as a trustee”.	
In section FE 4(1), replace the definition of natural person with:	
natural person , for an income year, is a natural person who meets the requirements of section FE 2 in the income year	
Section HA 7 amended (Shareholding requirements)	25
In section HA 7(1)(a), delete “other than a trustee”.	
Section MA 1 amended (What this Part does)	
In section MA 1, replace “person” with “natural person”.	
Section OB 1 amended (General rules for companies with imputation credit accounts)	30
Repeal section OB 1(2)(a)(ii).	

Section OB 2 amended (Australian companies choosing to have imputation credit accounts)

In section OB 2(2)(a)(i), replace “section OB 1(2)(a)(ii) to” with “section OB 1(2)(a)(iii) or”.

Section RE 11 amended (Notification by companies)

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In section RE 11(1), delete “a trustee or”.

In section RE 11, in the list of defined terms, delete “trustee”.

Section RE 12 amended (Interest)

In section RE 12(5)(a)(ii), delete “a trustee or”.

In section RE 12, in the list of defined terms, delete “trustee”.

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Section YA 1 amended (Definitions)

In the definition of **close company**, replace paragraphs (a)(i) and (ii) with:

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

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In the definition of **initial provisional tax liability**, in paragraph (a), delete “or a person who is a natural person and a trustee of a trust”.

In the definition of **initial provisional tax liability**, in paragraph (b), delete “and not a trustee of a trust”.

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In the definition of **look-through counted owner**, repeal paragraph (a)(i).

In the definition of **look-through interest**, in paragraph (c), delete “corporate”.

Section YB 3 amended (Company and person other than company)

Repeal section YB 3(5).

Section YC 9 amended (Shares or options held by trustees)

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After section YC 9(3), insert:

Company acting as trustee

(3B) A reference to company in subsection (3)(b) includes a company that is acting in the capacity of trustee.

**Schedule 1 amended (Basic tax rates: income tax, ESCT, RSCT, RWT, and
attributed fringe benefits)**

In schedule 1, part D, replace clause 4 with:

4 Interest: most companies

- (1) The payment rate for a payment of resident passive income that consists of interest is set out in table 3 if the recipient of the payment is a company that is not a Maori authority. 5
- (2) For the purposes of **subclause (1)**, a company includes a company that is acting in the capacity of trustee for a portfolio investment entity.

Schedule 1B
**Consequential amendments to other enactments related to tax
administration**

s 185B

<u>Companies Act 1993</u>	5
<u>In schedule 7, clause 1(2)(aa), replace “section 24Q” with “section 15ZB”.</u>	
<u>Education Act 1989</u>	
<u>In section 303(3F), in the definition of standard tax, replace “section 24B” with “schedule 5, part A, clause 4, table row 1”.</u>	
<u>Housing Restructuring and Tenancy Matters Act 1992</u>	10
<u>In section 2, in the definition of standard tax, replace “section 24B” with “schedule 5, part A, clause 4, table row 1”.</u>	
<u>Insolvency Act 2006</u>	
<u>In section 274(2)(aa), replace “section 24Q” with “section 15ZB”.</u>	
<u>New Zealand Superannuation and Retirement Income Act 2001</u>	15
<u>In section 15(1), in the definition of standard tax, replace “section 24B” with “schedule 5, part A, clause 4, table row 1”.</u>	
<u>In schedule 1, item 3, replace “section 24B” with “schedule 5, part A, clause 4, table row 1”.</u>	
<u>Veterans’ Support Act 2014</u>	20
<u>In section 170(2), in the definition of standard tax, replace “section 24B” with “schedule 5, part A, clause 4, table row 1”.</u>	

Schedule 2
New schedules 3 to 6 inserted

s 284

Schedule 3
Record-keeping requirements

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ss **22AA**, 25, 26, 49, 51

Table 1—Record-keeping requirements for employers and PAYE intermediaries

Row	Records
1	The amount of a PAYE income payment
2	The amount of tax for a PAYE income payment
3	The amount of an advance pay
4	The amount of a payroll donation
5	The amount of employer’s superannuation contribution
6	The amount of a benefit under an employee share scheme
7	The amount of personal service rehabilitation payment
8	The amount of tax credits under section LD 4 of the Income Tax Act 2007
9	The amount of child support deductions
10	The amount of salary or wage deductions under the Student Loan Scheme Act 2011
11	The amount of employer KiwiSaver contributions made under the KiwiSaver Act 2006
12	The amount of employee KiwiSaver contribution deductions under the KiwiSaver Act 2006
13	The name, tax file number, tax code, date of birth, and contact details <u>addresses</u> of every person who derives or receives an amount in rows 1 to 11
14	The records, receipts, certificates, notifications, declarations relating to the items in rows 1 to 13

Table 2—Record-keeping requirements for passive income

Row	Records
1	The name of every person who derives or is paid resident passive income or non-resident passive income
2	The tax file number of every person who derives or is paid resident passive income or non-resident passive income
3	The contact details <u>address</u> of every person who derives or is paid resident passive income or non-resident passive income

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Row	Records
4	The date of birth of very every person who derives or is paid resident passive income or non-resident passive income, if supplied by them
5	The type and amount of resident passive income and the amount of RWT withheld
6	The tax rate applying to the resident passive income
7	The date on which RWT was withheld, and if there is more than 1 instance, the year in which the amounts were withheld
8	The type and amount of non-resident passive income and the amount of NRWT withheld
9	The tax rate applying to the non-resident passive income
10	The date on which NRWT was withheld, and if there is more than 1 instance, the year in which the amounts were withheld
11	The details of all financial arrangements under which interest has been paid, including any number used to identify the financial arrangement
12	Other information required by the Commissioner

Schedule 4
Reporting of employment income information

ss 3, 23C, 23D, 23IB, 23J, 23K, 23L,
47, 227C

Table 1—Employment income information for payday reporting on payday basis

Row	Items
1	The name of the employer
2	The tax file number of the employer
3	The date of the applicable payday
4	Particulars of the following for every person who is an employee of the employer and who receives a PAYE income payment or benefit under an employee share scheme that is treated as derived on the payday:
a	the name
b	the tax file number, if supplied to the employer
c	the tax code for a PAYE income payment that is not an extra pay
d	the amount of gross earnings, including the value of a benefit arising under an employee share scheme
e	the identity name of every person who is an employee who receives an extra pay at a rate less than the rate set out in schedule 2, part B, table 1, row 32 of the Income Tax Act 2007
f	the total amount of tax withheld before any tax credits are taken into account
g	the amount of earnings not liable to the earner premium, including the value of a benefit arising under an employee share scheme
5	Particulars of the following amounts for every person who is an employee, as applicable:
a	the amount of any tax credit under section LD 4 of the Income Tax Act 2007
b	the amount of child support deductions
c	the amount of salary or wage deductions made under the Student Loan Scheme Act 2011
d	the amount of employer KiwiSaver contributions made under the KiwiSaver Act 2006, part 3, subpart 3 less ESCT
e	the amount of employee KiwiSaver contribution deductions under the KiwiSaver Act 2006, part 3, subpart 1
6	The amount of ESCT payable
7	Particulars of the following for every former employee who is treated as deriving receives a benefit under an employee share scheme on a payday

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Row	Items
	when the employer has chosen under section RD 7B of the Income Tax Act 2007 to withhold an amount of tax for the benefit:
a	the name of the employee
b	the tax file number, if supplied to the employer
c	the value of the benefit
d	the amount of tax withheld
<u>8</u>	<u>Other particulars as the Commissioner requires</u>

Table 2—Information about new employees

Row	Items
1	The name of the employer
2	The tax file number of the employer
3	The contact details <u>address</u> of the employer, <u>as required</u>
4	The <u>full</u> name of the employee
5	The contact details <u>address</u> of the employee, <u>as required</u>
6	The date of birth of the employee, if supplied to the employer
7	The date on which the employee starts being an employee of the employer
8	The tax file number of the employee, if supplied to the employer
9	The tax code supplied by the employee
10	The KiwiSaver status of the employee under section 22 of the KiwiSaver Act 2006

Table 3—Information about departing employees

Row	Items
1	The name of the employer
2	The tax file number of the employer
3	The contact details <u>address</u> of the employer
4	The name of the employee
5	The date on which the employee stops being an employee of the employer
6	The tax file number of the employee, if supplied to the employer

Schedule 5
Certain tax codes and rates

ss 3, 24B to 24H

Part A
PAYE tax codes for general use

5

1 Tax codes generally

- (1) The basic tax rates for PAYE income payments are set out in schedule 2 of the Income Tax Act 2007.
- (2) The table in **clause 4** lists the tax codes from which an employee must choose the code that applies to their circumstances unless they have a special tax code under **part B, clauses 1 to 3**. 10
- (3) An employee who receives a PAYE income payment of an income-tested benefit and a PAYE income payment that does not consist of an income-tested benefit may choose, for their non-benefit income, a secondary tax code set out in the table in **clause 4, rows 3 to 6**, that applies to their circumstances. 15
- (4) If another Act requires an employer to withhold the amount of tax for a PAYE income payment to an employee and pay the amount to the Commissioner, the tax code may be combined with another code applying under that Act.

2 Changes to tax codes

- (1) An employee must ~~advise~~inform their employer of a change in their tax code, including in the ~~advise~~information, their name and tax file number, unless the Commissioner has provided a code to the employer under **clause 3**. 20
- (2) If an employee finds it difficult or impractical to ~~notify~~inform their employer of a change in their tax code, they may notify the Commissioner who must then ~~advise~~notify the employer of the employee's new tax code. 25
- (3) The employee's new tax code under **subclause (1) or (2)** applies to a PAYE income payment that the employer pays to the employee from—
 - (a) the first day of a pay period to which the payment relates until the date on which the employee is no longer entitled to use the tax code if—
 - (i) the employer has no earlier tax code for the employee; or 30
 - (ii) the change to the tax code is provided before the date on which the employer calculates their payroll for the period:
 - (b) the first day of the pay period following that to which the payment relates if the change to the tax code is provided after the date on which the employer calculates their payroll for the period. 35

3 Use of incorrect tax codes

- (1) If the Commissioner considers that an employer or PAYE intermediary has used an incorrect tax code in relation to a PAYE income payment made to an employee, the Commissioner may—
- (a) notify the employee of the incorrect tax code; and 5
 - (b) ~~advise~~notify the employer or PAYE intermediary of the incorrect code; and
 - (c) provide the tax code that should apply to the PAYE income payment.
- (2) The employer or PAYE intermediary must use the tax code provided by the Commissioner after being notified. However, the tax code does not apply if the employee notifies their employer that their circumstances have changed and, as a result, a different tax code should apply. 10

4 When entitlement to use tax code ends

- (1) If an employee is no longer entitled to use a particular tax code, they must notify their employer within 4 days after the date on which they become aware that they are no longer entitled to use the code. The employee must give the reason why the tax code no longer applies and the date on which their entitlement to use the tax code ended. 15
- (2) The tax code does not apply to a PAYE income payment made to the employee after the date on which the entitlement ends, unless the payment is salary or wages for a current pay period. 20
- (3) For the purposes of **subclause (1)**, if the employee notifies the Commissioner that their entitlement has ended, they must similarly provide the reason and the date described in that subclause to the Commissioner.
- (4) If an employer has not ~~been notified~~received notice that the employee's entitlement to use the tax code has ended, the employer is not required to change the amount of tax withheld from ~~for~~ a payment made to an employee. 25

Tax code table

Row	Tax code	Circumstances for use of tax code
1	M	for primary employment earnings when the employee is not entitled to a tax credit under section LC 13 of the Income Tax Act 2007
2	ME	for primary employment earnings when the employee is entitled to a tax credit under section LC 13 of the Income Tax Act 2007
3	SB	for secondary employment earnings for an employee whose annual income is not more than \$14,000
4	S	for secondary employment earnings for an employee whose annual income is <u>more than \$14,000 but not more than \$48,000</u>

Row	Tax code	Circumstances for use of tax code
5	SH	for secondary employment earnings for an employee whose annual income is more than \$48,000 but not more than \$70,000
6	ST	for secondary employment earnings for an employee whose annual income is more than \$70,000
7	CAE	for salary or wages for employment as a casual agricultural employee
8	EDW	for salary or wages for employment as an election day worker
9	NSW	for salary or wages for employment as a non-resident seasonal worker

Part B Special and particular tax codes

1 Special tax codes

- (1) On application by an employee, the Commissioner may provide a special tax code for either— 5
- (a) their New Zealand superannuation income or veteran’s pension income; or
 - (b) their other employment income from 1 or more employers.
- (2) A special tax code may— 10
- (a) set out a tax code for a payment of salary or wages to an employee by 1 or more of their employers for a stated period:
 - (b) require that no amount of tax is withheld from, or a particular rate of tax applied to, a proportion of a PAYE income payment of the employee, as if it were the whole payment.
- (3) The Commissioner must calculate, for the PAYE income payments and the period to which the tax code applies, the amount of tax for the payments or the rate of tax applying to them,— 15
- (a) having regard to the amount of tax for the payments that would be required under sections RD 9 to RD 11 of the Income Tax Act 2007:
 - (b) disregarding an entitlement under ~~subparts MA to MF and MZ of that Act~~ the family scheme. 20
- (4) For a special tax code under **subclause (1)(a)**, the Commissioner must, as soon as practicable, notify the responsible department of the special tax code together with the information described in **subclauses (2) and (3)**. The department must use the special tax code for a PAYE income payment made to 25

	the employee after the date on which the department is notified, or if that payment has already been calculated, for the next payment.	
(5)	A special tax code overrides the provisions of this Act and the Income Tax Act 2007 other than the employee's duties under sections RA 8, RA 10 , and RD 4(2) of that Act and subclause (6) and part A, clauses 3 and 4 .	5
(6)	The Commissioner may cancel a special tax code at any time, notifying the employee or responsible department, as applicable. Once notified, the employee must then notify their employer that their entitlement to use a special tax code has ended.	
2	Tax codes for private domestic workers	10
	An employee may notify the Commissioner that they wish to have a tax code for their employment as a private domestic worker.	
3	Tax codes for non-resident seasonal workers	
	A non-resident seasonal worker under the recognised seasonal employer (RSE) instructions has a tax code set out in the table in part A, row 9 , for the first month of a period of employment in New Zealand.	15
Part C		
Rates of tax for schedular payments		
1	Rates of tax for schedular payments	
(1)	Clauses 2 to 7 apply to determine the rate of tax to be applied to a schedular payment to which sections RD 8 and RD 10B of the Income Tax Act 2007 and sections 24F and 24G apply. <i>See also sections 24F, 24G, and 24GB.</i>	20
(1B)	The rates of tax applying to schedular payments are—	
	(a) <u>the standard rate:</u>	
	(b) <u>a payee's elected rate:</u>	25
	(c) <u>a rate set by the Commissioner, applying in certain circumstances:</u>	
	(d) <u>a special rate provided by the Commissioner.</u>	
(2)	In this schedule—	
	(a) a person who is making a schedular payment is referred to as the payer :	
	(b) a person who is entitled to receive a schedular payment is referred to as the payee .	30
2	Standard rates of tax	
	The standard rates of tax for schedular payments are set out in schedule 4 of the Income Tax Act 2007.	

3	Non-standard rates of tax: payee rates and set rates	
	A payee may choose a rate of tax other than a standard rate to apply to a schedular payment. Before receiving the payment, the payee must notify the payer of—	
	(a) their name; and	5
	(b) their tax file number; and	
	(c) either—	
	(i) the rate chosen by them under clause 4 that is to apply to the payment;	
	(ii) the rate set and notified by the Commissioner under clause 5 .	10
4	Choosing Elected rates of tax	
(1)	A payee, other than a non-resident entertainer, may choose a rate of tax that is to apply to a schedular payment for the purposes of section RD 10B(3)(a)10B(2)(a) of the Income Tax Act 2007. The minimum rates that a payee may choose are—	15
	(a) for a payee who is a non-resident or a holder of a temporary entry class visa as defined in section 4 of the Immigration Act 2009, 15%;	
	(b) for all other payees, 10%.	
(2)	If a payee notifies a payer of 2 different rates of tax within 12 months a 12-month period, the last notified rate is the payee elected rate that must be applied to the payment, and the payee may not choose another change their rate of tax in relation to the same payer within a 12-month period of the first notified rate unless both the payer and payee agree.	20
(3)	For the purposes of this clause, the rate of tax must be a percentage counted to no more than 1 decimal place.	25
5	Rates of tax or percentages set by Commissioner	
(1)	The Commissioner may, from time to time, set a rate of tax for the payee's schedular payments if a payee has a liability under the Inland Revenue Acts that has not been met. The Commissioner must notify both the payee and the payer of the rate. If a payee has a liability under the Inland Revenue Acts that has not been met, the Commissioner may set a rate of tax to be applied to the payee's schedular payments by notifying the payer and, subject to subclause (7) , the payee.	30
(2)	The payee may ask the Commissioner to cancel the setting of a rate under rate referred to in subclause (1) , and the Commissioner must cancel the setting of the rate, notifying rate and notify the payee of the cancellation, if—	35
	(a) the Commissioner is satisfied that all the payee's liabilities under the Inland Revenue Acts have been met; and	

- (b) the Commissioner is reasonably satisfied that all the payee's liabilities under the Inland Revenue Acts will be met in the future.
- (3) In addition to the setting of a rate under **subclause (1)**, the Commissioner may, ~~from time to time,~~ set a percentage of the amount of 1 or more schedular payments ~~that are to be made by a payer to a payee and the payer must subtract the amount that is the percentage from the schedular payment and pay to the Commissioner, and the payer must—~~ 5
- (a) apply the percentage to the schedular payment; and
- (b) subtract the amount that is the percentage from the schedular payment; and 10
- (c) pay the amount to the Commissioner.
- (4) An amount paid to the Commissioner under **subclause (3)** is credited against the payee's liabilities under the Inland Revenue Acts and is not a tax credit under Part L of the Income Tax Act 2007.
- (5) The payee may ask the Commissioner to cancel the ~~setting of a percentage set~~ under **subclause (3)**. The Commissioner must cancel ~~the setting of the percentage and~~ notify the payee of the cancellation if the Commissioner is satisfied that the payee has paid all tax that is due and payable by them. 15
- (6) ~~For a payee and a schedular payment, a rate of tax or percentage set under this section must not be more than 50%.not result in an amount that is more than 50% of the amount of the schedular payment.~~ 20
- (7) For the purposes of **subclauses (1) and (3)**, the requirement to notify the payee does not have to be met if, after making reasonable inquiries, the Commissioner can find no contact address as described in section 14G for the payee. 25
- 6 Exemptions and special rates**Special rates of tax
- (1) The payee may apply to the Commissioner—
- (a) ~~in relation to 1 or more schedular payments for a period, for notification that they are entitled to receive payment for which no amount of tax is to be withheld, see **section 24G**;~~ 30
- (b) ~~for a special rate of tax applying to some or all of a schedular payment other than a payment referred to in schedule 4, part J of the Income Tax Act 2007 to a New Zealand resident.~~
- (2) ~~Subclause (1) does not apply to a payment to a non-resident entertainer.~~
- (2B) A payee, other than a non-resident entertainer, may apply to the Commissioner for a special rate of tax applying to some or all of a schedular payment, see **section 24G**. 35
- (3) ~~The Commissioner may cancel a rate referred to in **subclause (1)** at any time, notifying the payee of the cancellation.the payee's entitlement to use a special rate at any time. The Commissioner must notify the payee of the cancellation.~~ 40

6B	<u>Exempt schedular payments</u>	
(1)	<u>The Commissioner may notify a payee, in relation to 1 or more schedular payments, that they are entitled to receive payment for which no amount of tax is to be withheld, <i>see</i> section 24GB.</u>	
(2)	Subclause (1) does not apply in relation to—	5
(a)	a payment made to a non-resident entertainer;	
(b)	a payment referred to in schedule 4, part J of the Income Tax Act 2007 made to a payee who is a New Zealand resident.	
(3)	<u>The Commissioner may revoke the exemption at any time. The Commissioner must notify the payee of the revocation.</u>	10
7	<u>Use of incorrect rates of tax</u>	
(1)	If the Commissioner considers that a payer has used an incorrect rate of tax for a schedular payment made to a payee, the Commissioner may—	
(a)	notify the payee of the incorrect rate; and	
(b)	advise <u>notify</u> the payer of the incorrect rate; and	15
(c)	provide the rate that should apply to the schedular payment.	
(2)	After being notified, the payer must use the rate provided by the Commissioner. However, the rate does not apply if the payee notifies the payer that their circumstances have changed and, as a result, a different rate should apply.	
8	<u>General notification requirements</u>	20
	A payee must notify the payer of their name and tax file number.	

Schedule 6

Reporting of investment income information

ss 3, 22AAB, 25B to 25S, 57B, 227E

Table 1—Reporting of investment income information

Row	Items
1	The name of the payer
2	The tax file number of the payer
3	The contact details <u>address</u> of the payer
4	The name of the investor
5	The tax file number of the investor, if held by the payer
6	The contact details <u>address</u> of the investor
7	The date of birth of the investor, if held by the payer
8	The amount and type of income of the investor for the period
9	The tax withheld on behalf of, or approved issuer levy paid in relation to, the investor for the period
10	The date on which or period in which the tax was withheld or levy paid
11	The tax rate of the investor for the period <u>as notified to the payer</u> , if applicable
12	The prescribed <u>notified</u> investor rate of the investor, if applicable
13	Whether the PIE is a superannuation fund or a retirement savings scheme or not
14	The imputation credits attached, if applicable
15	The Maori authority credits attached, if applicable
16	The names, tax file numbers, tax rates <u>dates of birth</u> , and contact details <u>addresses</u> of persons who are joint owners, if held by the payer
17	The number of shares for which the dividend is declared, or in the case of a dividend that is a bonus issue, the number of shares included in the bonus issue
18	The date on which the dividend is declared and the payment date of the dividend
19	The total amount paid as dividends in relation to the shares, or in <u>In</u> the case of a dividend that is a bonus issue, the amount of the bonus issue as determined under section CD 7 or CD 8 of the Income Tax Act 2007
20	The total amount of imputation credits attached to the dividend, or nil if no credits are attached
21	The imputation ratio of the dividend

Row	Items
2220	If the dividend is paid in Australian currency by an Australian ICA company, the exchange rate between the NZ dollar and the Australian dollar that was used to calculate the imputation ratio
23	The date on which the Maori authority distribution is made
24	The total amount of Maori authority distributions made
25	The total amount of Maori authority credits attached to the distributions, or nil if no credits are attached
26	The Maori authority credit ratio of the distribution
27	For a financial arrangement, the date of acquisition or disposal and the amount of the consideration
28	For a redemption payment, the date on which the payment is made, and the amount of the consideration
21	The total amounts of income, tax withheld, credits, imputation ratio, and Maori authority ratio, as applicable, for the items in rows 8, 9, 14, 15, and 19
2922	Further information as required by the Commissioner

Legislative history

6 April 2017

Introduction (Bill 249–1)

24 May 2017

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