

Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Bill

Government Bill

Explanatory note

General policy statement

Withdrawals from foreign superannuation schemes

New rules are proposed for New Zealand residents with interests in foreign superannuation schemes. The rules provide, in particular, for New Zealand residents who are new migrants, returning New Zealanders who have spent a number of years working overseas, and New Zealand residents who have acquired an interest in a foreign superannuation scheme by other means, for example through inheritance or a relationship property agreement. The rules will affect people of working age and those who are retired.

In general, gains from interests in foreign superannuation schemes will no longer be taxed under the FIF rules, as they may be under the current rules, but will be taxed when distributions are received. The new rules do not apply to pensions or annuity payments, which will continue to be assessable under the current rules. The new rules apply to other distributions, including a cash withdrawal from a scheme and the transfer of an interest in a foreign scheme to a superannuation scheme in Australia or New Zealand. A transfer by a person from 1

foreign superannuation scheme outside Australia to another outside Australia is not a withdrawal to which the rules apply.

Two methods are available under the rules to determine the part of a withdrawal that is income. The usual method will be the schedule method, which aims to approximate the tax that a person would have paid on accrued gains had they transferred their scheme to New Zealand upon migration. An alternative is the formula method, which allows a person to pay tax on the actual gains derived, if the information is available. Both methods account for the deferral benefit a person receives from not paying tax on gains when those gains are derived.

People who transfer into a KiwiSaver scheme will have the option to apply for a withdrawal up to the value of the tax liability arising from the withdrawal from the foreign superannuation scheme.

Some people have complied with the foreign investment fund (FIF) rules for an interest in a foreign superannuation scheme. They may continue to apply the FIF rules to the interest after 1 April 2014.

A significant number of people have not complied with the existing rules. These people may become compliant by applying the existing rules and paying the appropriate penalties and use of money interest. Alternatively, they may return 15% of a previous withdrawal as assessable income in a future income tax return. This option is intended to provide a low-cost means to comply with the rules before Inland Revenue compliance activity resumes.

Mineral mining

Proposed amendments to the *Income Tax Act 2007* replace the tax rules related to the mining of specified minerals. There are 50 specified minerals, of which gold, silver, and iron sands are the most commonly mined. The current tax rules allow mineral miners a tax deduction for prospecting, exploration, and development expenditure, including expenditure on capital items such as plant, machinery, and production facilities. The rules also allow for appropriated amounts to be set aside for mining exploration or mining development for which a deduction is allowed in anticipation of the expenditure being incurred.

The immediate deductions for capital expenditure and expenditure yet to be incurred make the tax rules for specified mineral mining

very concessionary compared to most sectors. Under general tax principles, deductions for such expenditure should be deferred and allowed over the economic life of the relevant asset, that is, the mine. The proposed rules make the tax treatment related to the mining of specified minerals broadly consistent with the rules that apply to other business activities. A deduction is allowed for prospecting and exploration expenditure for the income year in which the expenditure is incurred. Development expenditure is capitalised and deducted over the life of the mine. To avoid development expenditure being reclassified as exploration expenditure, the cost of any items that are later used for the extraction of minerals is recovered as income for the income year in which the mine becomes operational and then deducted over the life of the mine, as if it were development expenditure. A mineral miner assesses the life of the mine based on their expected activities in a permit area, up to a maximum of 25 years.

A deduction is allowed for rehabilitation expenditure for the income year in which the amount is paid but, because the expenditure may be incurred after income-earning activity has ended, the miner may have a refundable tax credit for a loss that is incurred for the income year. This amount is limited to the amount of tax paid for previous income years.

Land is treated as revenue account property of a mineral miner, requiring income and deductions to be accounted for in the income year of disposal. If the disposal of the land results in a loss, the miner may similarly have a refundable tax credit may arise for that income year. The existing mining loss rules are unchanged, so that, while the shareholder continuity rules do not apply, mining losses can be offset only against income from the same permit area.

The normal tax rules apply in relation to mineral mining insurance receipts and bad debt recovery.

Working for Families tax credits

Minor changes are made to the provisions in Part M of the Income Tax Act 2007 relating to Working for Families tax credits. They improve the integrity of the provisions consistent with previous policy

changes, clarify the meaning of the provisions to ensure they operate as intended, and make remedial changes. In particular, the changes:

- clarify that family scheme income is based on a person's net income with adjustments as provided by subpart MB:
- provide that shares in a close company held by a dependent child of a principal caregiver are attributed to the principal caregiver or their spouse if they are a major shareholder of the close company:
- provide that the attribution of trust income to settlors for the purposes of calculating family scheme income is only in relation to settlors that are alive in the income year:
- clarify the days when a person is entitled to a parental tax credit:
- remove references to fortnightly instalments to reflect that payments can also be made weekly:
- improve the wording of the family credit abatement formula in situations when a person is entitled to a parental tax credit for a child born within 56 days of the end of a tax year, and the parental tax credit is paid as a lump sum.

The provision in section GB 44 relating to arrangements affecting Working for Families tax credits is amended to ensure it covers arrangements where the recipient of the tax credits is not directly involved in the arrangement. This will cover arrangements entered into by a spouse, for example, that affect family scheme income.

Insurance

The bill contains a number of technical remedial changes to the taxation rules as they apply to general and life insurance business. The changes are part of a programme to ensure that the reforms to the taxation of life insurance business and general insurance business, enacted by the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 work as intended. The changes:

- confirm entitlements under section DR 4 of the Income Tax Act 2007 that life insurers have in claiming a deduction for life insurance claims that are tied to reserves forming part of any acquired or transferred insurance business. The change applies from 1 July 2010 or earlier income years that include 1 July 2010 (the date the new life insurance rules started):

- establish, under sections DW 4 and EY 24(5) of that Act, a method for calculating an opening balance for life and general insurance reserves when business is transferred into New Zealand. The change applies from the first financial quarter following the enactment of the bill:
- alter the formula in section EY 17 of that Act which allocates income between a life insurer's policyholder and shareholder tax bases. The change confirms tax positions taken by taxpayers in earlier income years. It results in a number of consequential amendments. The amendment applies from 1 July 2010 or earlier income years that include 1 July 2010, the date the life insurance rules started.

Other amendments are technical or consequential in nature and have various application dates.

Imputation credits and Australian dividends

A proposed amendment addresses a mismatch arising under the tax rules when imputation credits are calculated on the basis of the dividend paid but income tax arises only on the foreign investment fund (FIF) income. This mismatch could lead to a resident having excess imputation credits, which can be used to offset tax on salary and wages. The amendment limits the amount of imputation credits, attached to a dividend received from an Australian company, that a resident can use to offset their New Zealand tax. The amendment requires the amount of imputation credits to be calculated on the basis of the resident's FIF income from that company, if the dividend exceeds the amount of FIF income.

Bad debt deductions for holders of debt

The bill proposes 2 changes to the tax rules regarding bad debt deductions for holders of debt. The first change is proposed for reasons of fairness and will ensure that taxpayers who hold debt can take bad debt deductions for amounts owing to them where the debt has been remitted by law (for instance, following liquidation or bankruptcy of the debtor), or where a debtor company entered into a composition with its creditors.

The second change is proposed to maintain the tax base. This change will limit the bad debt deductions that can be taken by taxpayers who

are in the business of dealing in or holding financial arrangements. The deductions will be limited to the true economic loss suffered. This will mean these taxpayers who hold debt will only be able to take deductions for the original amount lent, or, if they purchased the debt, the purchase price paid.

Financial reporting after repeal of Financial Reporting Act 1993

As a consequence of the repeal of the Financial Reporting Act 1993, Inland Revenue will set minimum financial reporting requirements for companies that otherwise have no obligation to prepare financial statements. This Bill authorises the use of Orders in Council to determine what other taxpayers may be subject to these requirements and the content of the minimum reporting requirements.

Notional interest under IFRS financial accounting

It is proposed that a change be made to clarify that taxpayers with interest-free and low-interest loans should not be able to claim tax deductions on notional interest amounts that can arise under IFRS financial accounting.

Donee status

Donee status is proposed for 3 new charitable organisations, namely Kailakuri Health Care Project – New Zealand Link, Marama Global – Education, and Marama Global – Health. Donors to those charities will be eligible for tax benefits on their donations.

Regulatory impact statements

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

A copy of these regulatory impact statements can be found at—

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

Clause by clause analysis

Clause 1 gives the title of the Act.

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

Part 1

Annual rates of income tax

Clause 3 gives the annual rates of income tax for the 2013–14 tax year.

Part 2

Amendments to Income Tax Act 2007

Clause 4 gives the clauses that affect the Income Tax Act 2007.

Clause 5 amends *section CB 36* by correcting the list of defined terms.

Clause 6 inserts *new section CD 36B*, which excludes a foreign superannuation withdrawal paid by a company from being a dividend, as a consequence of *new section CF 3*.

Clause 7 amends the *heading to subpart CF*, as a consequence of *new section CF 3*.

Clause 8 inserts *new section CF 3*, which applies to withdrawals, other than annuities or pensions, from foreign superannuation schemes. A withdrawal includes the conversion of an interest in a superannuation scheme outside New Zealand and Australia into an interest in a superannuation scheme in New Zealand or Australia. Most non-residents who have an interest in a foreign superannuation scheme before they become resident are given a period (the *exemption period*), after they become resident, during which a withdrawal from the scheme is not taxed. For a withdrawal by a resident other than in an exemption period, an amount calculated using 1 of the 2 prescribed methods is included in the income of the resident. Under the *formula method*, which is optional, the amount depends on the amount of the withdrawal, the value of the person's interest in the foreign superannuation scheme at the beginning of the period (the *assessable period*) in which withdrawals are taxed, and, for the assessable period before the withdrawal, the contributions by the person to the scheme, other withdrawals from the scheme, and increases in the value of the interest in the scheme. Under the *schedule method*, which is the usual method, the amount depends

on the amount of the withdrawal, the amount of mandatory contributions by the person to the scheme after the exemption period, and a proportion set in a schedule that increases with increasing time in assessable periods between the end of the exemption period and the withdrawal.

Clause 9 amends *section CQ 5*, removing provisions that exempt interests in foreign superannuation schemes from being attributing interests in FIFs. The exemptions are unnecessary as a consequence of *new section CF 3*.

Clause 10 amends *section CT 1* as a consequence of changes to the defined terms relating to mining in *new subpart CU*.

Clause 11 amends *section CT 4* as a consequence of changes to the defined terms relating to mining in *new subpart CU*.

Clause 12 amends *section CT 5* as a consequence of changes to the defined terms relating to mining in *new subpart CU*.

Clause 13 replaces *subpart CU*. The subpart determines the amounts that are a mineral miner's income, including amounts derived from disposals of land and mineral mining assets, and also provides for the recovery of certain expenditure. The definitions of *mineral miner*, *mining operations*, and *listed industrial mineral* are set out in this subpart.

Clause 14 amends *section CV 2*, by correcting a cross-reference.

Clause 15 inserts *new section CV 18*, which provides that a person's income includes an amount arising from an imputation credit under *new section LE 8B*.

Clause 16 amends *section CW 12*, by inserting a definition that was unintentionally removed by a previous amendment of the section. The definition is reinserted with effect from the commencement date of the previous amendment.

Clause 17 amends the *heading before section CW 28*, as a consequence of the insertion of *new sections CW 28B and CW 28C*.

Clause 18 inserts *new sections CW 28B and CW 28C*. *New section CW 28B* provides that a foreign superannuation withdrawal derived in an exemption period given by *new section CF 3* is exempt income. *New section CW 28C* provides that if a foreign superannuation withdrawal is not derived in an exemption period, part of the withdrawal is exempt income.

Clause 19 replaces *section CX 43* as a consequence of changes to the defined terms relating to mining in *new subpart CU*.

Clause 20 repeals *section CX 44* as a consequence of changes to the rules for mineral mining.

Clause 21 repeals *section CX 45* as a consequence of changes to the rules for mineral mining.

Clause 22 repeals *section CX 46* as a consequence of changes to the rules for mineral mining.

Clause 23 repeals *section CZ 2* as a consequence of changes to the rules for mineral mining.

Clause 24 repeals *section CZ 4* as a consequence of changes to the rules for mineral mining.

Clause 25 inserts *new section CZ 21B*, which is a transitional provision allowing an optional treatment of a person's withdrawal from a foreign superannuation scheme before *1 April 2014* if the person has not included the withdrawal in a return of income, and the income in the withdrawal has not been assessed, before that date. The person may choose to include an amount of income, from the withdrawal, in a return of income for a year after the year of the withdrawal. The person is then treated as having derived 15% of the withdrawal as income in the year of the return. If the year of the return is after the 2014–15 income year, the resultant increase in the person's tax liability for the year of the return is treated as having the same due date for payment as the person's terminal tax for the 2014–15 income year. The effect is that penalties and interest will not be payable if the withdrawal is included in the return for person's 2014–15 income year.

Clause 26 inserts *new section CZ 27*, which is a transitional provision applying to a person who, before the date of introduction of the Bill, acquires a debt and takes a deduction for the debt under *section DB 31* as that section was before being amended by the Bill. If the debt exists on the first day of the 2014–15 income year, the person's is treated as deriving an amount of income that effectively reduces the deduction for the debt to the amount that the person would have had under *section DB 31* as amended.

Clause 27 inserts *new section CZ 28*, which is a transitional provision applying to a mineral miner who, before the 2014–15 income year, has a deduction under *section DU 4* and income under *section*

CU 9 as those sections were before being amended by the Bill. If the amended sections produce an income tax liability for the mineral miner for the 2014–15 income year, the mineral miner may allocate the corresponding income equally between the 2014–15 and 2015–16 income years.

Clause 28 amends *section DB 30*, as a consequence of changes to the rules for mineral mining.

Clause 29 amends *section DB 31*, limiting the deductions of a person who writes off financial arrangement debt as irrecoverable, and also allowing holders of debt to take deductions where they would ordinarily be entitled to them on the cessation of the arrangement, but currently cannot for technical compliance reasons.

Clause 30 amends *section DN 6*, as a consequence of the removal from the FIF rules of most interests in foreign superannuation schemes.

Clause 31 amends *section DP 11*, inserting a missing heading.

Clause 32 amends *section DR 3*, correcting the punctuation of a paragraph to produce the effect originally intended.

Clause 33 amends *section DR 4*, removing a restriction on the availability of deductions for life insurers from claims on policies transferred to the life insurer.

Clause 34 amends *section DT 17*, as a consequence of changes to the rules for mineral mining.

Clause 35 replaces *subpart DU*. The subpart provides the deductibility and spreading rules for the 4 classes of mining expenditure, and sets out the definitions of those expenditure classes.

Clause 36 amends *section DW 4*, to provide for the valuation of reserves associated with insurance contracts transferred by a non-resident to a resident insurer.

Clause 37 repeals *section DZ 12*, as a consequence of changes to the rules for mineral mining.

Clause 38 amends *section EW 15D*, to provide for the tax consequences of valuations of some loans made under the IFRS financial reporting rules.

Clause 39 amends *section EX 21*, changing cross-references as a consequence of changes to the rules for mineral mining.

Clause 40 amends *section EX 29*, providing for interests in foreign superannuation schemes that are not being removed from the rules relating to income from foreign investment funds (FIFs).

Clause 41 repeals *section EX 33*, as a consequence of the removal of most interests in superannuation schemes from the rules relating to income from foreign investment funds (FIFs).

Clause 42 repeals *section EX 42*, as a consequence of the removal of most interests in superannuation schemes from the rules relating to income from foreign investment funds (FIFs).

Clause 43 inserts *new section EX 42B*, as a consequence of the removal of most interests in superannuation schemes from the rules relating to income from foreign investment funds (FIFs).

Clause 44 amends *section EY 5*, to provide for the part-year valuation of reserves associated with a class of life insurance contracts transferred by a non-resident to a resident life insurer.

Clause 45 amends *section EY 15*, clarifying the relationship between the section and *section EY 19* in apportioning a life insurer's investment income between policyholder base income and shareholder base income.

Clause 46 amends *section EY 17*, as a consequence of changed defined terms relating to valuations that determine life insurers' shareholder and policyholder tax bases.

Clause 47 amends *section EY 19*, correcting a cross-reference.

Clause 48 amends *section EY 20*, correcting a cross-reference.

Clause 49 amends *section EY 21*, as a consequence of changed defined terms relating to valuations that determine life insurers' shareholder and policyholder tax bases.

Clause 50 amends *section EY 24*, as a consequence of changed defined terms relating to valuations that determine life insurers' shareholder and policyholder tax bases.

Clause 51 amends *section EY 28*, as a consequence of changed defined terms relating to valuations that determine life insurers' shareholder and policyholder tax bases.

Clause 52 amends *section EY 29*, as a consequence of changed defined terms relating to valuations that determine life insurers' shareholder and policyholder tax bases.

Clause 53 amends *section EZ 56*, as a consequence of changed defined terms relating to valuations that determine life insurers' shareholder and policyholder tax bases.

Clause 54 amends *section EZ 57*, as a consequence of changed defined terms relating to valuations that determine life insurers' shareholder and policyholder tax bases.

Clause 55 inserts *new section EZ 64*, which is a transitional provision applying to a person affected by amendments to *section EW 15D* relating to the allocation of interest to some loans under the IFRS financial reporting rules.

Clause 56 repeals *section FB 20*, as a consequence of changes to the rules for mineral mining.

Clause 57 repeals *section FB 21*, as a consequence of changes to the rules for mineral mining.

Clause 58 amends *section FM 31*, as a consequence of changes to defined terms in the rules for mineral mining.

Clause 59 amends *section FN 4*, as a consequence of changes to defined terms in the rules for mineral mining.

Clause 60 amends *the heading before section GB 20*, as a consequence of changes to defined terms in the rules for mineral mining.

Clause 61 replaces *section GB 20*, as part of changes to the rules for mineral mining.

Clause 62 amends *section GB 32*, expanding an abbreviated term.

Clause 63 amends *section GB 44*, clarifying that the section covers arrangements entered by a person who does not receive a tax credit directly.

Clause 64 amends *section GZ 1*, to correct a cross-reference as a consequence of changes to the rules for mineral mining.

Clause 65 amends *section HA 4*, to correct a cross-reference.

Clause 66 amends *section HC 15*, as a consequence of the removal of foreign superannuation withdrawals from the rules relating to trust distributions.

Clause 67 amends *section HC 27*, as a consequence of the removal of foreign superannuation withdrawals from the rules relating to trust distributions.

Clause 68 amends *section HM 8*, correcting the list of defined terms.

Clause 69 amends *section HM 11*, correcting the list of defined terms.

Clause 70 amends *section HM 12*, correcting the list of defined terms.

Clause 71 amends *section HM 13*, correcting the list of defined terms.

Clause 72 amends *section HM 50*, correcting a cross-reference.

Clause 73 amends *section HM 55FB*, correcting a cross-reference.

Clause 74 amends *section HM 72*, correcting punctuation.

Clause 75 amends *section HR 8*, correcting a cross-reference as a consequence of the new rules for foreign superannuation withdrawals.

Clause 76 amends *section IA 7*, as a consequence of changes to defined terms in the rules for mineral mining.

Clause 77 amends *section ID 1*, as a consequence of changes to defined terms in the rules for mineral mining.

Clause 78 amends the heading to *subpart IS*, as a consequence of changes to defined terms in the rules for mineral mining.

Clause 79 amends *section IS 1*, as part of the changes to the rules for mineral mining.

Clause 80 amends *section IS 2*, as a consequence of changes to defined terms in the rules for mineral mining.

Clause 81 repeals *section IS 3*, as a consequence of the changes to the rules for mineral mining.

Clause 82 repeals *section IS 4*, as a consequence of the changes to the rules for mineral mining.

Clause 83 amends *section IS 6*, as a consequence of the changes to the rules for mineral mining.

Clause 84 amends *section IV 1*, to change a cross-reference as part of the changes to the rules for mineral mining.

Clause 85 amends *section LA 6*, to insert a cross-reference as part of the changes to the rules for mineral mining.

Clause 86 inserts *new section LE 8B*, which limits the amount of an imputation credit available to a person if the imputation credit is part of a dividend from a company in which the person has an attributable interest producing FIF income.

Clause 87 repeals *section LR 1*, which is redundant as a consequence of changes made by an earlier Act.

Clause 88 inserts *new subpart LU*. The subpart provides a tax credit for a mineral miner for amounts of mining rehabilitation expenditure and losses on the disposal of land in circumstances when, for the

relevant income year, the miner is likely to have no income from the permit site.

Clause 89 amends *section MA 8*, clarifying that family scheme income is based on a person's net income with adjustments as provided by *subpart MB*.

Clause 90 amends *section MB 1*, clarifying the way in which a person's entitlement and tax credit under the family scheme is calculated.

Clause 91 replaces *section MB 4*, which gives the family scheme income of major shareholders in close companies. Under the new section, shares held by dependent children of a shareholder, or of the shareholder's spouse, civil union partner, or de facto partner, are attributed to the shareholder.

Clause 92 amends *section MB 7*, clarifying a formula used in calculating a person's family scheme income.

Clause 93 amends *section MC 6*, by deleting an unnecessary entry from the list of defined terms.

Clause 94 amends *section MD 1*, replaces a cross reference, as part of the clarification of the mechanism for calculating the abatement of a family credit that includes a parental tax credit associated with the birth of a child in the last 56 days of an income year.

Clause 95 amends *section MD 2*, repealing a subsection that is superfluous as a consequence of the changes to *section MD 16*.

Clause 96 amends *section MD 12*, clarifying the formula used to calculate the amount of a parental tax credit associated with the birth of a child.

Clause 97 amends *section MD 13*, as a consequence of an amendment in an earlier Act.

Clause 98 amends *section MD 16*, to clarify the calculation of the abatement of a family credit paid to a person as a lump sum that includes a parental tax credit associated with the birth of a child in the last 56 days of an income year. The amended provision provides for an amount of additional abatement of the person's parental tax credit, based on the days of the parental entitlement period falling in the income year following the year of the birth.

Clause 99 amends *section OB 1*, clarifying the definition of *ICA company*.

Clause 100 amends *section OB 47*, clarifying the consequences if an imputation credit in the imputation credit account of a life insurer is lost because continuity of shareholding is not maintained. The amendment provides that in such a situation no debit arises in the imputation credit account at the end of the year, although such a debit would normally arise when the amount of the credit apportioned to the life insurer's policyholder base is determined.

Clause 101 amends *section OP 44*, clarifying the consequences if an imputation credit in the consolidated imputation credit account of a life insurer's group is lost because continuity of shareholding is not maintained. The amendment provides that in such a situation no debit arises in the consolidated imputation credit account at the end of the year, although such a debit would normally arise when the amount of the credit apportioned to the life insurer's policyholder base is determined.

Clause 102 amends *section RD 5*, inserting a subsection heading omitted when a subsection was inserted by another Act.

Clause 103 amends *section YA 1* as follows:

- *subclause (2)* repeals the definition of *asset* as part of changes to the rules for mineral mining:
- *subclause (3)* amends the definition of *associated mining operations* by changing a cross-reference as part of changes to the rules for mineral mining:
- *subclause (4)* replaces the definition of *Australian ICA company*, as part of the clarification of the definition of *ICA company*:
- *subclause (5)* replaces the definition of *commercial production*, as part of the changes to the rules for mineral mining:
- *subclause (6)* amends the definition of *dispose*, changing a reference to a defined term as part of changes to the rules for mineral mining:
- *subclause (7)* replaces the definition of *farm-out arrangement*, changing references to defined terms as part of changes to the rules for mineral mining:
- *subclause (8)* amends the definition of *FDP rules*, to clarify the outcome of amendments by earlier Acts:
- *subclause (9)* inserts a definition of *FIF superannuation interest*, which is an interest in a foreign superannuation scheme

that a person may choose to have treated as an attributing interest in a FIF if certain criteria are met, producing FIF income rather than the income given by *new section CF 3*:

- *subclause (10)* inserts a definition of *foreign defined contribution scheme*, as part of the changes to the taxation of withdrawals from foreign superannuation schemes:
- *subclause (11)* inserts a definition of *foreign superannuation withdrawal*, as part of the changes to the taxation of withdrawals from foreign superannuation schemes:
- *subclause (12)* amends the definition of *holding company* as part of the changes to the rules for mineral mining:
- *subclause (13)* replaces the definition of *ICA company*, clarifying that the definition includes both a New Zealand company that must have an imputation credit account and an *Australian ICA company*:
- *subclause (14)* repeals the definition of *income from mining* as part of the changes to the rules for mineral mining:
- *subclause (15)* amends the definition of *initial treatment* by changing a cross-reference as part of changes to the rules for mineral mining:
- *subclause (16)* inserts a definition of *limited recourse arrangement*, as part of the changes to the rules relating to deductions for bad debts that are written off as irrecoverable:
- *subclause (17)* inserts a definition of *listed industrial mineral* as part of the changes to the rules for mineral mining:
- *subclause (18)* amends the definition of *loan* as part of the changes to the rules for mineral mining:
- *subclause (19)* inserts a definition of *mineral mining asset* as part of the changes to the rules for mineral mining:
- *subclause (20)* repeals the definition of *mining company* as part of the changes to the rules for mineral mining:
- *subclause (21)* amends the definition of *mining development expenditure* by changing a cross-reference as part of changes to the rules for mineral mining:
- *subclause (22)* amends the definition of *mining exploration expenditure* by changing a cross-reference as part of changes to the rules for mineral mining:

- *subclause (23)* repeals the definition of *mining holding company* as part of the changes to the rules for mineral mining:
- *subclause (24)* amends the definition of *mining operations* by changing a cross-reference as part of changes to the rules for mineral mining:
- *subclause (25)* amends the definition of *mining or prospecting right* by changing a cross-reference as part of changes to the rules for mineral mining:
- *subclause (26)* repeals the definition of *mining outgoing excess* as part of the changes to the rules for mineral mining:
- *subclause (27)* replaces the definition of *mining permit* as part of the changes to the rules for mineral mining:
- *subclause (28)* repeals the definition of *mining permit area* as part of the changes to the rules for mineral mining:
- *subclause (29)* inserts a definition of *mining prospecting expenditure* as part of the changes to the rules for mineral mining:
- *subclause (30)* amends the definition of *mining prospecting information* by changing a cross-reference as part of changes to the rules for mineral mining:
- *subclause (31)* repeals the definition of *mining purposes* as part of the changes to the rules for mineral mining:
- *subclause (32)* inserts a definition of *mining rehabilitation expenditure* as part of the changes to the rules for mineral mining:
- *subclause (33)* repeals the definition of *mining share* as part of the changes to the rules for mineral mining:
- *subclause (34)* repeals the definition of *mining venture* as part of the changes to the rules for mineral mining:
- *subclause (35)* amends the definition of *net mining loss* by changing cross-references as part of changes to the rules for mineral mining:
- *subclause (36)* repeals the definition of *non-resident mining operator* as part of the changes to the rules for mineral mining:
- *subclause (37)* amends the definition of *NZIAS 28* to reflect changes in law:
- *subclause (38)* amends the definition of *NZIAS 31* to reflect changes in law:

- *subclause (39)* amends the definition of *partnership share*, correcting an amendment by another Act:
- *subclause (40)* replaces the definition of *permit area* as part of the changes to the rules for mineral mining:
- *subclause (41)* repeals the definition of *prescribed amount* as part of the changes to the rules for mineral mining:
- *subclause (42)* repeals the definition of *prescribed period* as part of the changes to the rules for mineral mining:
- *subclause (43)* repeals the definition of *prescribed proportion* as part of the changes to the rules for mineral mining:
- *subclause (44)* inserts the definition of *present value (actuarial net)* as part of changes to the rules allocating income between a life insurer's policyholder and shareholder tax bases:
- *subclause (45)* amends the definition of *present value (gross)* as a consequence of changes to defined terms relating to the rules allocating income between a life insurer's policyholder and shareholder tax bases:
- *subclause (46)* amends the definition of *present value (net)* as a consequence of changes to defined terms relating to the rules allocating income between a life insurer's policyholder and shareholder tax bases:
- *subclause (47)* repeals the definition of *reinvestment profit* as part of the changes to the rules for mineral mining:
- *subclause (48)* repeals the definition of *resident mining operator* as part of the changes to the rules for mineral mining:
- *subclause (49)* amends the definition of *residual expenditure* as part of changes to the rules for mineral mining:
- *subclause (50)* repeals the definition of *schedular income* as part of changes to the rules for mineral mining:
- *subclause (51)* repeals the definition of *specified mineral* as part of changes to the rules for mineral mining:
- *subclause (52)* gives the application for the amendments to the definitions of *Australian ICA company*, *ICA company*, and *partnership share*:
- *subclause (53)* gives the application for the amendment to the definition of *FDP rules*:

- *subclause (54)* gives the application for the amendments to the definitions of *present value (actuarial net)*, *present value (gross)*, and *present value (net)*:
- *subclause (55)* gives the application for the amendments to the definitions of *commercial production*, *farm-out arrangement*, and *residual expenditure*.

Clause 104 amends *schedule 1* to clarify the cumulative effect of several earlier amendments.

Clause 105 amends *schedule 32*, by inserting 3 new organisations to the list. Donors to the organisations have tax credits for the donations.

Clause 106 inserts the *new schedule 33* contained in *schedule 1*. The new schedule provides fractions for the calculation of income from foreign superannuation withdrawals under the schedule method in *new section CF 3*.

Clause 107 makes the changes specified in *schedule 2*.

Part 3

Amendments to other Acts

Tax Administration Act 1994

Clause 108 gives the clauses amending the *Tax Administration Act 1994*.

Clause 109 amends *section 17*, as part of the changes to rules relating to the provision of accounting information by companies to the Commissioner.

Clause 110 inserts *new sections 21B and 21C* providing for the obligations of companies and other persons to prepare, and provide to the Commissioner, financial statements consistent with requirements prescribed by Orders in Council.

Clause 111 amends *section 22*, as part of the changes to rules relating to the provision of accounting information by companies to the Commissioner.

Clause 112 amends *section 24O*, to provide consistency with former requirements.

Clause 113 amends *section 91C*, correcting cross-references to reflect earlier amendments.

Clause 114 amends *section 108*, tightening the limitation on the Commissioner's power to reassess.

KiwiSaver Act 2006

Clause 115 amends *schedule 1 of the KiwiSaver Act 2006*, to provide in the KiwiSaver scheme rules for a withdrawal from a KiwiSaver scheme. A withdrawal is permitted to meet a tax liability arising under the new rules from a withdrawal of an interest in a foreign superannuation scheme and reinvestment of the whole interest in the KiwiSaver scheme.

Income Tax Act 2004

Clause 116 inserts *new section CF 3* into the *Income Tax Act 2004*. The section allows a person to choose the treatment prescribed by *section CZ 21B of the Income Tax Act 2007* for a withdrawal from a foreign superannuation scheme if the person derives the withdrawal between the *beginning of the 2005–06 income year* and the *end of the 2007–08 income year* and the withdrawal is not returned or assessed before *1 April 2014*.

Income Tax Act 1994

Clause 117 inserts *new section CC 4* into the *Income Tax Act 1994*. The section allows a person to choose the treatment prescribed by *section CZ 21B of the Income Tax Act 2007* for a withdrawal from a foreign superannuation scheme if the person derives the withdrawal between *1 January 2000* and the *end of the 2004–05 income year* and the withdrawal is not returned or assessed before *1 April 2014*.

Health Entitlement Cards Regulations 1993

Clause 118 amends *regulation 8 of the Health Entitlement Cards Regulations 1993*, as a consequence of changes made in an earlier Act.

Hon Peter Dunne

Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Bill

Government Bill

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The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act **2013**.
- 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 114** comes into force on 24 October 2001.
- (3) **Sections 14, 16, 29(1), (2), (3), (5), and (9), 31, 65, 99, 102(2), 103(4), (13), (39), and (52), 112, and 113** come into force on 1 April 2008. 10
- (4) **Section 5** comes into force on 1 January 2009.
- (5) **Section 103(8) and (53)** comes into force on 30 June 2009.
- (6) **Sections 33, 45, 46, 49, 50, 51, 52, 53, 54, 100, 101, and 103(44), (45), (46), and (54)** come into force on 1 July 2010. 15

- (7) **Section 104** comes into force on 1 April 2011.
- (8) **Section 103(37) and (38)** comes into force on 1 July 2011.
- (9) **Sections 68, 69, 70, 71, and 74** come into force on 29 August 2011.
- (10) **Section 62** comes into force on 2 November 2012. 5
- (11) **Sections 38, 72, 73, and 102(1)** come into force on 1 April 2013.
- (12) **Sections 26, 29(4), (6), (7), and (8) and 103(16)** come into force on the day of introduction of the **Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Bill**. 10
- (13) **Sections 36 and 44** come into force on the first day of the first financial quarter beginning after this Act receives the Royal assent.
- (14) **Sections 6, 7, 8, 9, 10, 11, 12, 13, 15, 17, 18, 19, 20, 21, 22, 23, 24, 25, 27, 28, 30, 34, 35, 37, 39, 40, 41, 42, 43, 55, 56, 57, 58, 59, 60, 61, 64, 66, 67, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 94, 95, 96, 98, 103(2), (3), (5), (6), (7), (9), (10), (11), (12), (14), (15), (17), (18), (19), (20), (21), (22), (23), (24), (25), (26), (27), (28), (29), (30), (31), (32), (33), (34), (35), (36), (40), (41), (42), (43), (47), (48), (49), (50), (51), and (55), 105, 106, 115, 116, and 117** come into force on 1 April 2014. 15
20

Part 1

Annual rates of income tax

25

- 3 Annual rates of income tax for 2013–14 tax year**
Income tax imposed by section BB 1 of the Income Tax Act 2007 must, for the 2013–14 tax year, be paid at the basic rates specified in schedule 1 of that Act.

Part 2

30

Amendments to Income Tax Act 2007

- 4 Income Tax Act 2007**
This Part amends the Income Tax Act 2007.

“Amounts within other provisions

- “(2) A foreign superannuation withdrawal derived by a resident is subject to—
- “(a) section CW 27 (Certain income derived by transitional resident), if the person is a transitional resident: 5
 - “(b) **section CW 28B** (Foreign superannuation withdrawal in initial period of residency), if the person—
 - “(i) is a resident under section YD 1 (Residence of natural persons); and
 - “(ii) acquired the person’s interest in the scheme when a non-resident under section YD 1 or under an applicable double tax agreement; and 10
 - “(iii) is not a transitional resident; and
 - “(iv) derives the foreign superannuation withdrawal in an exemption period given by **subsection (4)**: 15
 - “(c) **section CW 28C** (Foreign superannuation withdrawal exceeding given amount), if the foreign superannuation withdrawal is derived in the person’s assessable period given by **subsection (5)**, to the extent to which the foreign superannuation withdrawal exceeds— 20
 - “(i) the amount given by **subsection (7)** as the assessable withdrawal amount, if the person uses the schedule method; or
 - “(ii) the amount given by **subsection (13)** as the assessable withdrawal amount, if the person uses the formula method. 25

“Eligibility for exemption period

- “(3) A person has an exemption period under **subsection (4)** for an interest in a scheme that the person acquires before—
- “(a) the person is a transitional resident under section HR 8(2) (Transitional residents), disregarding any choice under section HR 8(4); or 30
 - “(b) the person is a New Zealand resident who is not a non-resident under a double tax agreement, at a time (the **exemption commencement**) when the person— 35
 - “(i) is not a transitional resident, and
 - “(ii) has not had an exemption period previously.

- “(ii) the person has the information required for the application of the formula method; and
- “(iii) the person derives no withdrawal, other than a pension or annuity, from the scheme before 1 April 2014; and 5
- “(iv) the person has not used the schedule method for the interest in the scheme; and
- “(v) for a person who acquires the interest in the scheme as a bequest from a deceased New Zealand resident, the deceased person did not use the schedule method for the interest in the scheme; and 10
- “(vi) the person chooses to use the formula method for the interest in the scheme.
- “*Schedule method: assessable withdrawal amount* 15
- “(7) The assessable withdrawal amount under the schedule method is calculated using the formula:
- (super withdrawal – contributions left) × schedule year fraction.
- “*Definition of items in formula in subsection (7)*
- “(8) In the formula in **subsection (7)**,—
- “(a) **super withdrawal** is the amount of the foreign superannuation withdrawal: 20
- “(b) **contributions left** is the lesser of the amount of the item super withdrawal and the total amount of recognised contributions under **subsection (16)** made in the assessable period before the distribution time, reduced, 25
- for each foreign superannuation withdrawal (the **earlier withdrawal**) made in the assessable period before the distribution time, by an amount equal to the lesser of—
- “(i) the amount of the earlier withdrawal:
- “(ii) the value of the item contributions left, immediately before the time of the earlier withdrawal: 30
- “(c) **schedule year fraction** is the fraction given in **schedule 33** (Default fractions of foreign superannuation withdrawals), column 2 of the row for which the entry in column 1 corresponds to the greater of 1 and the 35
- number of income years beginning—

- “(i) in an assessable period for the person under **subsection (5)**; and
 - “(ii) after the time when the person acquires the interest; and
 - “(iii) before the time (the **distribution time**) when the person derives the foreign superannuation withdrawal. 5
- “*Formula method: distributed gain*
- “(9) Under the formula method, the part (the **distributed gain**) of a foreign superannuation withdrawal that is treated as consisting of gains made by the scheme during the assessable period is calculated using the formula: 10
- (super withdrawal × calculated gains fraction) – gains out.
- “*Definition of items in formula in subsection (9)*
- “(10) In the formula in **subsection (9)**,— 15
- “(a) **super withdrawal** is the amount of the foreign superannuation withdrawal:
 - “(b) **gains out** is the total amount of distributed gains given by **subsection (9)** for foreign superannuation withdrawals in an assessable period before the distribution time. 20
- “*Formula method: calculated gains fraction*
- “(11) In the formula in **subsection (9)**, **calculated gains fraction** is the greater of zero and the amount calculated using the formula—
- $$\frac{\text{predistribution} + \text{withdrawals} - \text{transit} - \text{contributions}}{\text{predistribution}}.$$
- “*Definition of items in formula in subsection (11)* 25
- “(12) In the formula in **subsection (11)**,—
- “(a) **predistribution** is the value of the interest in the scheme immediately before the distribution time:
 - “(b) **withdrawals** is the total amount of withdrawals from the interest in the scheme before the distribution time: 30
 - “(c) **transit** is the value of the interest in the scheme at the beginning of the assessable period:

“(d) **contributions** is the amount of contributions to the interest in the scheme made before the distribution time.

“*Formula method: assessable withdrawal amount*

“(13) For the foreign superannuation withdrawal, the amount (the **assessable withdrawal amount**) not exempt under **section CW 28C** is the amount calculated using the formula: 5

gain out × (grow rate – 1) × tax rate × (assessable years – 1) + gain out.

“*Formula method: grow rate*

“(14) In the formula in **subsection (13)**, **grow rate** is the amount calculated using the formula—

$$\left(\frac{\text{accrued total}}{\text{transit}} \right) \frac{1}{\text{assessable years.}}$$

“*Definition of other items in formulas in subsections (13) and (14)* 10

“(15) In the formulas in **subsections (13) and (14)**,—

“(a) **gain out** is the amount of the distributed gain given by **subsection (9)** for the foreign superannuation withdrawal: 15

“(b) **tax rate** is the tax rate given by schedule 1, part A, table 1, row 4 (Basic income tax rates: income tax, ESCT, RSCT, RWT, and attributed fringe benefits):

“(c) **assessable years** is the greater of 1 and the number of tax years beginning in an assessable period and before the distribution time: 20

“(d) **accrued total** is the value of the interest in the scheme immediately before the distribution time, increased by the value of distributions from the interest in the scheme before the distribution time, and reduced by the value of recognised contributions under **subsection (16)** made to the scheme in an assessable period before the distribution time: 25

“(e) **transit** is the value of the interest in the scheme at the beginning of the assessable period. 30

“Recognised contributions

“(16) The value of a payment to the scheme is taken into account in the formulas in **subsections (7), (11), and (14)** as a contribution (a **recognised contribution**) if the payment—

“(a) is made when the person is a New Zealand resident and is a non-resident under no double tax agreement; and 5

“(b) is made by the person, by the person’s employer, or for the benefit of the person; and

“(c) is required by the rules of the scheme; and

“(d) is subject to employer superannuation contribution tax or fringe benefit tax if made by the person’s employer. 10

“Interests in superannuation scheme

“(17) For the purposes of this section, an interest of a person in a foreign superannuation scheme consists of rights of the person to benefit as a member or beneficiary from distributions by the superannuation scheme. 15

“Calculating assessable period

“(18) In calculating under **subsection (5)** the assessable period for a person who acquires an interest in a foreign superannuation scheme, the person is treated as acquiring the interest,— 20

“(a) if none of **paragraphs (b) to (d)** apply, when the first contribution is made to the superannuation scheme, in relation to the rights, by or for the person; or

“(b) if the person is converting existing rights in another superannuation scheme (the **former scheme**) to corresponding rights of the person in the superannuation scheme, when the person acquired the rights in the former scheme; or 25

“(c) if the person is acquiring rights in the superannuation scheme from another person, other than by a transaction to which **paragraph (d)** applies, when the person acquires the rights; or 30

“(d) if the person is acquiring existing rights in the superannuation scheme by a transfer from the estate of a deceased New Zealand resident after the beginning of the assessable period for the rights for the deceased person, the beginning of that assessable period. 35

“Defined in this Act: amount, double tax agreement, foreign defined contribution scheme, foreign superannuation withdrawal, foreign superannuation

scheme, income, income year, non-resident, superannuation scheme, transitional resident”.

- 9 Section CQ 5 amended (When FIF income arises)**
Repeal section CQ 5(1)(c)(iii) and (xiii).
- 10 Section CT 1 amended (Disposal of exploratory material or petroleum mining asset)** 5
In section CT 1(3), replace “arrangements for petroleum mining” with “arrangements for mining operations”.
- 11 Section CT 4 amended (Partnership interests and disposal of part of asset)** 10
In section CT 4, replace “arrangements for petroleum mining” with “arrangements for mining operations”.
- 12 Section CT 5 amended (Petroleum mining operations outside New Zealand)** 15
In section CT 5, replace “arrangements for petroleum mining” with “arrangements for mining operations”.
- 13 Subpart CU replaced (Income from mineral mining)**
(1) Replace subpart CU (Income from mineral mining) with—
“Subpart CU—Income from mineral mining
- “**CU 1 Mineral miner’s income** 20
An amount that a mineral miner derives from their mining operations or associated mining operations is income of the mineral miner.
“Defined in this Act: amount, associated mining operations, mineral miner, mining operations, income 25
- “**CU 2 Treatment of mining land**
If a mineral miner acquires land or an interest in land for the purposes of their mining operations or associated mining operations, an amount that the mineral miner derives from dis-

posing of the land or interest in land is income of the mineral miner for the income year of disposal.

“Defined in this Act: amount, associated mining operations, land, mineral miner, mining operations, income, income year, interest

“CU 3 Disposal of mineral mining assets 5

“Income

“(1) The consideration that a mineral miner derives from disposing of a mineral mining asset is income of the mineral miner.

“Relationship with section CX 43

“(2) This section is overridden by **section CX 43** (Farm-out arrangements for mining operations). 10

“Defined in this Act: income, mineral miner, mineral mining asset

“CU 4 Recovery of certain expenditure

“When this section applies

“(1) This section applies when— 15

“(a) a mineral miner incurs an amount of mining exploration expenditure in relation to their mining operations or associated mining operations; and

“(b) the mineral miner is allowed a deduction for the expenditure for an income year under **section DU 1(1)(b)** (Mining expenditure: prospecting and exploration expenditure); and 20

“(c) the income year is later than the 2012–13 income year; and

“(d) the expenditure results in, produces, or generates an asset for the mineral miner; and 25

“(e) the mineral miner uses the asset for, or in relation to, the commercial production of a listed industrial mineral.

“Income

“(2) The mineral miner is treated as deriving income to the extent of the amount of expenditure that resulted in, produced, or generated the asset. However, the amount must not be more than the amount of the deduction referred to in **subsection (1)(b)**. 30

“Timing

- “(3) The income is allocated to the income year in which the mineral miner uses the asset for, or in relation to, the commercial production of the mineral.

“Defined in this Act: amount, associated mining operations, commercial production, deduction, income, income year, interest, land, listed industrial mineral, mineral, mineral miner, mining exploration expenditure, mining operations 5

“CU 5 Partnership interests and disposal of part of asset

In this subpart and **subpart DU** (Mineral mining expenditure), and in **sections CX 43** (Farm-out arrangements for mining operations), and **GB 20** (Arrangements involving petroleum and mineral mining) unless the context otherwise requires,— 10

“(a) a partner is treated as having a share or interest in a mineral mining asset or other property of a partnership to the extent of their interest in the income of the partnership: 15

“(b) references to the disposal of an asset apply equally to the disposal of part of an asset.

“Defined in this Act: income, mineral mining asset, partner, partnership

“Definitions 20

“CU 6 Meaning of mineral miner

“Meaning

- “(1) **Mineral miner** means a person to which 1 of the following applies:

“(a) the person’s only source of income is the business described in **subsection (2)**; or 25

“(b) the person’s main source of income is the business described in **subsection (2)**; or

“(c) the person’s only activity is 1 of the activities described in **subsection (3)**; or 30

“(d) the person’s main activity is 1 of the activities described in **subsection (3)**; or

“(e) the person proposes that their only activity or their main activity be 1 of the activities described in **subsection (3)**. 35

“Business

“(2) The business referred to in **subsection (1)(a) and (b)** is the business of mining a listed industrial mineral in New Zealand.

“Activities

“(3) The activities referred to in **subsection (1)(c), (d), and (e)** 5
are—

“(a) exploring, searching, or mining for a listed industrial mineral in New Zealand; or

“(b) performing development work for exploring, searching, 10
or mining for a listed industrial mineral in New Zealand.

“Service for reward

“(4) An activity described in **subsection (3)** does not include an activity done or to be done as a service to another person for reward unless the reward—

“(a) is wholly or mainly related to and dependent on the pro- 15
duction of the listed industrial mineral; or

“(b) arises wholly or mainly through participation in profits from the production of the listed industrial mineral.

“Defined in this Act: business, income, listed industrial mineral, New Zealand

“**CU 7 Some definitions** 20

“Meaning of mining operations

“(1) **Mining operations** means operations that—

“(a) are carried on by a mineral miner in a permit area in New Zealand for the purpose of deriving income; and

“(b) consist of— 25

“(i) exploring, or searching for 1 or more listed industrial minerals; or

“(ii) performing development work for exploring, searching, or mining for 1 or more listed industrial minerals; or 30

“(iii) extracting 1 or more listed industrial minerals; or

“(iv) mining or performing work directly related to mining for 1 or more listed industrial minerals.

“Meaning of associated mining operations

“(2) **Associated mining operations** means operations that— 35

- “(a) are carried on in New Zealand in association with mining operations; and
- “(b) consist of the accumulation, initial treatment, and transport of listed industrial minerals up to the stage at which the minerals— 5
 - “(i) are in a saleable form and in a location suitable for a person to acquire them; or
 - “(ii) are ready to be processed beyond the initial treatment or to be used in a manufacturing operation.
- “*Meaning of initial treatment* 10
- “(3) For the purposes of **subsection (2)(b)(ii), initial treatment**—
 - “(a) means—
 - “(i) breaking, cleaning, crushing, grading, grinding, leaching, screening, or sizing; or 15
 - “(ii) a treatment that is applied before concentration or, for a listed industrial mineral not requiring concentration, a treatment that would have been applied before concentration if the mineral had required concentration; or 20
 - “(iii) concentration; and
 - “(b) does not include—
 - “(i) calcining or sintering; or
 - “(ii) the production of, or processes carried on in connection with the production of, alumina, or pellets, or other agglomerated forms of iron. 25

“Defined in this Act: associated mining operations, income, initial treatment, listed industrial mineral, mineral, mineral miner, mining operations, New Zealand, permit area
- “**CU 8 Meaning of listed industrial mineral** 30
- “*Meaning*
- “(1) **Listed industrial mineral**—
 - “(a) means alumina minerals (for example, bauxite, corundum, diaspore, and gibbsite), aluminous refractory clays containing over 30% alumina in the fired state, aluminous refractory fireclays containing over 30% alumina in the fired state, andalusite, antimony, asbestos, barite, bentonite (except bentonite mined in the 35

area formerly known as Malvern County), bituminous shale, chromite, copper, diatomite, dolomite, feldspar, fluorite, gold, halloysite, kaolin, kyanite, lead, magnesite, manganese, mercury, mica, molybdenite, nickel, perlite, phosphate, platinum group, pyrite, silica in lump form used only in producing silicon carbide or silicon metal or ferro silicon, silica in sand form used only in producing silicon carbide, sillimanite, silver, sodium chloride, sulphur, talc, tin, titanium, titanomagnetite, tungsten, uranium, wollastonite, zeolite, zinc, and zircon:

“(b) includes a mineral that is declared to be an industrial mineral in a *Gazette* notice given by the Minister.

“*Minister to consider*

“(2) Before giving a *Gazette* notice about a particular mineral, the Minister must consider whether the mineral is or is likely to be of importance—

“(a) in the industrial development of New Zealand:

“(b) as a means of reducing the quantity of industrial minerals or industrial rock required to be imported into New Zealand:

“(c) as an item of export from New Zealand.

“Defined in this Act: listed industrial mineral, mineral, Minister, New Zealand

“**CU 9 Some definitions**

“*Meaning of mineral mining asset* 25

“(1) **Mineral mining asset** means—

“(a) a mining or prospecting right:

“(b) an exploration permit, a prospecting permit, or a mining permit:

“(c) a share or partial interest in an asset described in **paragraph (a) or (b)**. 30

“*Inclusion for particular purpose*

“(2) For the purposes of **section GB 20** (Arrangements involving petroleum and mineral mining), a mineral mining asset also includes an asset that is acquired by a mineral miner for the purposes of their mining operations or associated mining operations. 35

“Exclusion

“(3) A mineral mining asset does not include land.

“Meaning of mining or prospecting right

“(4) For the purposes of this section, **mining or prospecting right**— 5

“(a) means an authority, concession, easement, lease, licence, option, permit, privilege, right, or title relating to exploring, searching, or mining for, or carrying on an operation to recover, a listed industrial mineral; and

“(b) includes a share or interest in any such authority, concession, easement, lease, licence, option, permit, privilege, right, or title. 10

“Defined in this Act: associated mining operations, exploration permit, land, lease, listed industrial mineral, mineral miner, mineral mining asset, mining operations, mining or prospecting right, mining permit, permit, prospecting permit”. 15

(2) **Subsection (1)** applies for the 2014–15 and later income years.

14 Section CV 2 amended (Consolidated groups: income of company in group) 20

(1) In section CV 2(1), replace “section FM 8 (Transactions between group companies: income)” with “section FM 9 (Amounts that are company’s income)”.

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

15 New section CV 18 inserted (Additional income for certain imputation credits)

After section CV 16, insert:

“CV 18 Additional income for certain imputation credits

“When this section applies 30

“(1) This section applies when a person has assessable income for the purposes of section LE 1 (Tax credits for imputation credits) because section LE 1(4B) applies (the **LE 1(4B) income**), and the LE 1(4B) income includes an imputation credit. 35

“Income

“(2) For the income year to which the LE 1(4B) income relates, the person derives an amount of income equal to the amount of the tax credit for the imputation credit under **section LE 8B** (Dividends from certain FIF interests). 5

“Defined in this Act: assessable income, imputation credit, income, income year, tax credit”.

16 Section CW 12 amended (Proceeds of share disposal by qualifying foreign equity investor)

Insert in section CW 12(4), in the appropriate alphabetical order: 10

“**qualifying foreign equity investor** means a person who is not resident in New Zealand and who is 1 or more of—

“(a) a foreign exempt entity:

“(b) a person who is part of a foreign exempt partnership: 15

“(c) a foreign exempt person.”

17 Heading before section CW 28 amended (Income from living allowances, compensation, and government grants)

In the heading before section CW 28, insert “*foreign superannuation,*” before “*compensation*”. 20

18 New sections CW 28B and CW 28C inserted

After section CW 28, insert:

“CW 28B Foreign superannuation withdrawal in initial period of residency

A foreign superannuation withdrawal is exempt income of a person if the person— 25

“(a) is not a transitional resident; and

“(b) meets the requirements of **section CF 3(2)(b)** (Withdrawals from foreign superannuation scheme); and

“(c) derives the foreign superannuation withdrawal in the exemption period given by **section CF 3(4)** for the person. 30

“Defined in this Act: exempt income, foreign superannuation withdrawal, transitional resident

“CW 28C Foreign superannuation withdrawal exceeding given amount

A foreign superannuation withdrawal derived by a person in the assessable period given by **section CF 3(5)** (Withdrawals from foreign superannuation scheme) for the person is exempt income of the person to the extent to which the foreign superannuation withdrawal exceeds the amount—

“(a) given by **section CF 3(7)** as the distributed gain, if the person uses the schedule method under that section; or

“(b) given by **section CF 3(13)** as the assessable withdrawal amount, if the person uses the formula method under that section.

“Defined in this Act: exempt income, foreign superannuation withdrawal”.

19 Section CX 43 replaced (Farm-out arrangements for petroleum mining)

(1) Replace section CX 43 with:

“CX 43 Farm-out arrangements for mining operations

Farm-in expenditure under a farm-out arrangement is excluded income of a petroleum miner or a mineral miner, as applicable, who is the farm-out party in the farm-out arrangement.

“Defined in this Act: excluded income, farm-in expenditure, farm-out arrangement, mineral miner, petroleum miner”.

(2) **Subsection (1)** applies for the 2014–15 and later income years.

20 Section CX 44 repealed (Disposal of mining shares)

Repeal section CX 44.

21 Section CX 45 repealed (Disposal of mining shares acquired with reinvestment profit)

Repeal section CX 45.

22 Section CX 46 repealed (Repayment of loans made from reinvestment profit)

Repeal section CX 46.

- 23 Section CZ 2 repealed (Mining company’s 1970–71 tax year)**
Repeal section CZ 2.
- 24 Section CZ 4 repealed (Mineral mining: company making loan before 1 April 1979)** 5
Repeal section CZ 4.
- 25 New section CZ 21B inserted (Optional treatment of withdrawals from foreign superannuation schemes not included in return or assessed before 1 April 2014)**
After section CZ 21, insert: 10
- “CZ 21B Optional treatment of withdrawals from foreign superannuation schemes not included in return or assessed before 1 April 2014**
- “When this section applies*
- “(1) This section applies when a person—** 15
- ““(a) derives an amount from a foreign superannuation scheme as a withdrawal other than a pension or annuity in the period beginning on 1 January 2000 and ending with 31 March 2014; and**
- ““(b) does not include the withdrawal (the **omitted withdrawal**) in a return of income for the income year in which the amount was derived; and** 20
- ““(c) is not assessed before 1 April 2014 for income included in the omitted withdrawal; and**
- ““(d) chooses to include in a return of income for an income year (the **return year**) ending on or after 31 March 2014 an amount of assessable income as relating to the omitted withdrawal.** 25
- “Amount of income*
- “(2) The person is treated as deriving from the omitted withdrawal an amount of assessable income (the **withdrawal income**) equal to 15% of the amount of the omitted withdrawal.** 30
- “Tax on omitted withdrawal*
- “(3) The amount of the liability of the person for income tax (the **withdrawal tax liability**) arising from the omitted withdrawal is the difference between the person’s income tax liability for** 35

the return year, with the withdrawal income included in the person's assessable income for that year, and the income tax liability that the person would have for the return year if the withdrawal income were not included in the person's assessable income for that year.

5

“Due date for payment of tax amount

“(4) The amount of the withdrawal tax liability arising from the person's return of income for the return year has a due date for payment corresponding to the due date for payment of the person's terminal tax for the earlier of the return year and the person's 2014–15 income year.

10

“Relationship with law applicable when withdrawal derived

“(5) This section overrides the law applying to the taxation of the omitted withdrawal when the person derived the omitted withdrawal.

15

“Defined in this Act: assessable income, foreign superannuation withdrawal, income tax, income tax liability, income year, return of income, terminal tax”.

26 New section CZ 27 inserted (Prior bad debt deductions clawback)

After section CZ 26, insert:

20

“CZ 27 Prior bad debt deductions clawback

“When this section applies

“(1) This section applies when—

“(a) a person acquires a debt before the introduction of the **Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Bill** (the **introduction day**); and

25

“(b) the debt exists on the first day of the 2014–15 income year; and

“(c) the person has taken, in a return of income, a deduction for the debt under section DB 31 (Bad debts) for an income year that starts before the introduction day (a **prior bad debt deduction**); and

30

“(d) the prior bad debt deduction arose before the introduction day; and

35

“(e) the person does not have a dispute with the Commissioner on the introduction day in relation to any prior bad debt deduction for the debt.

“Income: prior bad debt deductions clawback

“(2) The person has an amount of income equal to the difference between their total prior bad debt deductions for the debt, and the amount of deductions that they would have had for the debt under section DB 31 for the same period of the prior bad debt deductions if **section DB 31(4B), (4C), and (5B)** were treated as applying on and after the first day that the person acquires the debt. 5 10

“Defined in this Act: Commissioner, deduction, income, income year, return of income”.

27 New section CZ 28 inserted (Transitional provision for mineral mining: previously appropriated mining expenditure) 15

(1) After **section CZ 27**, insert:

“CZ 28 Transitional provision for mineral mining: previously appropriated mining expenditure

“When this section applies 20

“(1) This section applies when—

“(a) a mineral miner appropriates an amount of income for an income year to mining exploration expenditure or mining development expenditure; and

“(b) the income year precedes the 2014–15 income year; and 25

“(c) the mineral miner has a deduction under section DU 4 (Income appropriated to expenditure) and a corresponding amount of income under section CU 9 (Previous deduction for income appropriated) as those sections were immediately before the enactment of the **Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2013**; and 30

“(d) as a result of the application of those sections, the mineral miner has an income tax liability for the 2014–15 income year. 35

“Timing

“(2) The mineral miner may allocate the corresponding amount of income equally to the 2014–15 and 2015–16 income years.

“Defined in this Act: amount, deduction, income, income tax liability, income year, mineral miner, mining development expenditure, mining exploration expenditure”.

(2) **Subsection (1)** applies for the 2014–15 and later income years.

28 Section DB 30 amended (Cost of non-specified mineral)

(1) In section DB 30, replace the section heading with “**Cost of certain minerals**”.

(2) In section DB 30(1)(b), replace “a specified mineral” with “a listed industrial mineral”.

29 Section DB 31 amended (Bad debts)

(1) Replace section DB 31(1)(a) with: 15

“(a) the debt is a debt—

“(i) written off as bad in the income year:

“(ii) for which the debtor is released from making all remaining payments under the Insolvency Act 2006 excluding Part 5, subparts 1 and 2 of that Act, or under the Companies Act 1993, or under the laws of a country or territory other than New Zealand, and the person is required to calculate a base price adjustment by section EW 29 (When calculation of base price adjustment required) for the debt for the income year: 20
25

“(iii) for which the debtor is a company that is released from making all remaining payments by a deed or agreement of composition, and the person is required to calculate a base price adjustment by section EW 29 for the debt for the income year; and”.

(2) In section DB 31(2)(a), replace “the requirement” with “a requirement”.

(3) In section DB 31(3)(a), replace “the requirement” with “a requirement”.

- (4) In section DB 31(3)(d) replace “ subsection (5) does” with “**subsections (4B)** to (5) do”.
- (5) In section DB 31(4)(a), replace “the requirement of subsection (1)(a)” with “the requirement of subsection (1)(a)(i)”.
- (6) After section DB 31(4) insert: 5
“Face value
 “(4B) A person is allowed a deduction, under **subsection (3)**, for a debt acquired for less than its face value, only to the extent of the consideration the person pays for acquiring the debt.
“Limited recourse 10
 “(4C) A person is allowed a deduction, under **subsection (3)**, for a debt that a limited recourse arrangement relates to, only to the extent to which the limited recourse arrangement does not relate to the debt.”
- (7) After section DB 31(5), insert: 15
“A definition
 “(5B) In this section, **limited recourse arrangement** means, in relation to a debt, an arrangement that is for the person’s business of dealing in or holding financial arrangements, and that requires repayment or no repayment of an amount under the arrangement contingent upon payment or no payment, in whole or in part, of the debt.” 20
- (8) In section DB 31, in the list of defined terms, insert “arrangement” and “limited recourse arrangement”.
- (9) **Subsections (1), (2), (3), and (5)** apply for a debt that goes bad— 25
 (a) in the 2008–09 and later income years, unless **paragraph (b)** applies:
 (b) on and after the day on which this Act receives the Royal assent, if the person has filed a return of income 30
 for the income year in which the debt goes bad.
- 30 Section DN 6 amended (When FIF loss arises)**
 Repeal section DN 6(1)(c)(iii) and (xiii).
- 31 Section DP 11 amended (Cost of timber)**
 In section DP 11, before subsection (4B), insert as a subsection 35
 heading “*Exception*”.

32 Section DR 3 amended (Life reinsurance outside New Zealand)

In section DR 3(a), replace “.” with “; and”.

33 Section DR 4 amended (Life insurers’ claims reserves)

(1) In section DR 4, replace the heading with “**Life insurers’ claims reserves: non-participation policies**”.

(2) In section DR 4(3), replace “The general limitations still apply” with “The general limitations still apply, except that the capital limitation does not apply for a life insurer and the life risk component of life insurance policies that have been transferred to the life insurer”.

(3) In section DR 4, list of defined terms, insert “capital limitation” and “life risk component”.

(4) **Subsection (2)** applies—

(a) on and after 1 July 2010, unless **paragraph (b)** applies: 15

(b) for an income year that includes 1 July 2010 and later income years, if the life insurer chose to apply the life insurance rules in the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 in a return of income for the tax year corresponding to the first relevant income year. 20

34 Section DT 17 amended (Attribution of expenditure)

In section DT 17(3) replace “(Arrangements involving petroleum mining)” with “(Arrangements involving petroleum and mineral mining)”. 25

35 Subpart DU replaced (Mineral mining expenditure)

(1) Replace subpart DU with:

“Subpart DU—Mineral mining expenditure

“**DU 1 Mining expenditure: prospecting and exploration expenditure**” 30

“Deduction

“(1) A mineral miner is allowed a deduction for the following expenditure:

“(a) mining prospecting expenditure:

“(b) mining exploration expenditure, subject to **section DU 6**.

“*Link with subpart DA*

“(2) This section supplements the general permission. The general limitations still apply. 5

“Defined in this Act: deduction, general limitation, general permission, mineral miner, mining exploration expenditure, mining prospecting expenditure

“**DU 2 Mining expenditure: rehabilitation expenditure**

“*Deduction*

“(1) A mineral miner is allowed a deduction for mining rehabilitation expenditure. 10

“*Timing of deduction*

“(2) The deduction is allocated to the income year in which the mineral miner pays the amount of mining rehabilitation expenditure. 15

“*Tax credit*

“(3) If a mineral miner has a tax loss for a tax year after taking into account an amount of mining rehabilitation expenditure incurred in relation to a permit area, they may have a tax credit for the amount under **section LU 1** (Tax credits for mineral miners) for the corresponding income year. 20

“*Link with subpart DA*

“(4) This section overrides the capital limitation. The general permission must still be satisfied and the other general limitations still apply. 25

“Defined in this Act: amount, capital limitation, corresponding income year, deduction, general limitation, general permission, income year, mineral miner, mining rehabilitation expenditure, pay, permit area, tax credit, tax loss, tax year

“**DU 3 Acquisition of land for mining operations**

“*Deduction* 30

“(1) A mineral miner is allowed a deduction for expenditure incurred in acquiring land or an interest in land for the purposes of their mining operations or associated mining operations.

“*Exclusions*

“(2) **Subsection (1)** does not apply to the following expenditure: 35

- “(a) expenditure incurred on or in relation to land that is not part of the mineral miner’s permit area, or the site of any of the mineral miner’s mining operations or associated mining operations:
- “(b) expenditure referred to in **section DU 9(1)**: 5
- “(c) expenditure for which the mineral miner has a deduction before disposing of the land or interest in land:
- “(d) residual expenditure.
- “Timing of deduction*
- “(3) The deduction is allocated to the income year in which the mineral miner disposes of the land or interest in land. 10
- “Treatment of losses on disposal of land*
- “(4) If the mineral miner has a tax loss for a tax year after taking into account the amount derived from the disposal of the land or interest in land, they may have a tax credit for the amount of the loss on disposal under **section LU 1** (Tax credits for mineral miners) for the corresponding income year. 15
- “Link with subpart DA*
- “(5) This section overrides the capital limitation. The general permission must still be satisfied and the other general limitations still apply. 20
- “Defined in this Act: amount, associated mining operations, capital limitation, deduction, general limitation, general permission, interest, income year, land, mineral miner, mining operations, permit area, residual expenditure, tax credit, tax loss, tax year 25
- “DU 4 Acquisition of mineral mining assets**
- “Deduction for assets acquired before mining permits*
- “(1) If a person acquires a mineral mining asset before the date on which a mining permit for the permit area to which the asset relates is obtained, they are allowed a deduction for expenditure incurred in acquiring the asset. 30
- “Mining development expenditure for later assets*
- “(2) If a person acquires a mineral mining asset after the date on which a mining permit for the permit area to which the asset relates is obtained, the expenditure incurred in acquiring the asset is treated as mining development expenditure. 35

“No application costs

- “(3) For the purposes of this section, expenditure incurred does not include the cost of an application for a mining right or mining permit.

“Link with subpart DA

5

- “(4) This section overrides the capital limitation. The general permission must still be satisfied and the other general limitations still apply.

“Defined in this Act: capital limitation, deduction, general limitation, general permission, mineral mining asset, mining development expenditure, mining permit, permit area

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“DU 5 Farm-out arrangements

“When this section applies

- “(1) This section applies when a farm-in party under a farm-out arrangement incurs farm-in expenditure that, if it were incurred by the farm-out party, would fall into 1 of the classes of mining expenditure referred to in **section DU 9(1)**.

15

“Treatment of farm-in expenditure

- “(2) The farm-in expenditure is treated as if it were the applicable class of mining expenditure.

20

“Link with subpart DA

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

“Defined in this Act: capital limitation, farm-in expenditure, farm-out arrangement, general limitation, general permission

25

“Spreading rule for certain expenditure

“DU 6 Spreading rule for certain expenditure

“When this section applies

- “(1) This section applies when—

“(a) a mineral miner—

30

- “(i) incurs an amount of mining development expenditure for an income year on or in relation to their mining operations or associated mining operations in a permit area:

- “(ii) has incurred an amount of mining exploration expenditure in relation to a permit area on acquiring or creating property for which the mineral miner has been allowed a deduction in an earlier income year, and the amount is recovered as income under **section CU 4** (Recovery of certain expenditure); and 5
- “(b) the mineral miner starts to use the permit area to derive income for the income year.
- “*No deduction (with exception)* 10
- “(2) The mineral miner is denied a deduction for the expenditure except to the extent allowed under this section.
- “*Spreading rule*
- “(3) The mineral miner is allowed a deduction for an income year that falls within the spreading period referred to in **section DU 7** of an amount calculated using the formula— 15
- $$\text{rate} \times \text{value.}$$
- “*Definition of items in formula*
- “(4) The items in the formula are defined in **subsections (5) and (6)**.
- “*Rate* 20
- “(5) **Rate** is—
- “(a) the straight-line rate set out in schedule 12, column 2 (Old banded rates of depreciation) that is nearest to the rate calculated for the expenditure using the formula in **section DU 8(2)**, if the mineral miner chooses to use the straight-line method: 25
- “(b) the diminishing value rate set out in schedule 12, column 1 that corresponds to the straight-line rate under **paragraph (a)**, if the mineral miner chooses to use the diminishing value method. 30
- “*Value*
- “(6) **Value** is—
- “(a) the adjusted tax value of the expenditure, if the mineral miner chooses to use the straight-line method:

“(b) the diminished value of the expenditure for the income year, if the mineral miner chooses to use the diminishing value method.

“*Link with subpart DA*

“(7) This section overrides the capital limitation. The general permission must still be satisfied and the other general limitations still apply. 5

“Defined in this Act: adjusted tax value, amount, associated mining operations, capital limitation, deduction, diminishing value method, diminishing value rate, general limitation, general permission, mineral miner, mining development expenditure, mining exploration expenditure, mining operations, permit area, straight-line method, straight-line rate 10

“**DU 7 Length of spreading period**

“*When this section applies*

“(1) This section applies for the purposes of **section DU 6(3)** to determine the length of the spreading period for certain mining expenditure of a mineral miner related to a permit area. 15

“*Start and end dates*

“(2) The spreading period is the number of income years that represents the assumed life of the mine referred to in **section DU 8** that comprises the permit area,— 20

“(a) starting from the later of—

“(i) the income year in which the mineral miner’s commercial production of a listed industrial mineral from the permit area starts; or 25

“(ii) the income year in which the expenditure is incurred; and

“(b) ending at the expiry of the assumed life of the mine.

“Defined in this Act: commercial production, income year, listed industrial mineral, mineral miner, permit area 30

“**DU 8 Measurement of assumed life of mine and application to rate**

“*When this section applies*

“(1) This section applies for the purposes of **section DU 6(5)(a)** for the item **rate** in the formula that determines the amount of the deduction a mineral miner is allowed for an income year that falls in the spreading period described in **section DU 7**. 35

“Formula for straight-line rate

“(2) The formula for the straight-line rate is—

$$\frac{100\%}{\text{assumed life.}}$$

“Definition of item in formula

“(3) In the formula, **assumed life**, for an amount of expenditure and an income year, is the period that the mineral miner chooses that— 5

“(a) is not less than the period that—

“(i) the mineral miner uses for accounting purposes as the amortisation period for the permit area; or

“(ii) for a mineral miner that is not required to use a amortisation period for their accounts, the mineral miner estimates is a reasonable period for the commercial production of a listed industrial mineral from the permit area; and 10

“(b) is not more than 25 years from the later of— 15

“(i) the date on which commercial production from the permit area starts; and

“(ii) that date on which the mineral miner incurs the expenditure relating to the permit area. 20

“Reassessment of life of mine

“(4) A mineral miner must reassess the assumed life of the mine for the purposes of this section and **sections DU 7 and DU 12**. A reassessment must be made at the end of an income year that falls within the period, and applies from the start of the next income year for all remaining income years in the period in relation to all outstanding expenditure for which no deduction has yet been allowed. 25

“Defined in this Act: commercial production, deduction, income year, listed industrial mineral, mineral miner, permit area, straight-line rate

“Classes of mining expenditure

“DU 9 Classes of mineral mining expenditure

“Classes

“(1) Sections DU 10 to DU 13 set out the classes of mineral mining expenditure. They are— 5

“(a) mining prospecting expenditure, see **section DU 10**:

“(b) mining exploration expenditure, see **section DU 11**:

“(c) mining development expenditure, see **section DU 12**:

“(d) mining rehabilitation expenditure, see **section DU 13**.

“No recharacterisation as mining prospecting expenditure 10

“(2) For the purposes of this subpart, **subpart CU** (Income from mineral mining), **sections GB 20** (Arrangements involving petroleum and mineral mining), IA 7(7), IS 1, and IS 2 (which relate to tax losses), and **LU 1** (Tax credits for mineral miners), no amount of expenditure that properly falls into a class of expenditure referred to in **subsection (1)(b) to (d)** may be characterised as mining prospecting expenditure because of the timing of the expenditure or for any other reason. 15

“Defined in this Act: amount, mining development expenditure, mining exploration expenditure, mining prospecting expenditure, mining rehabilitation expenditure 20

“DU 10 Some definitions

“Meaning of mining prospecting expenditure

“(1) Mining prospecting expenditure—

“(a) means expenditure that a mineral miner incurs directly in relation to the acquisition of— 25

“(i) a prospecting right under the Crown Minerals Act 1991:

“(ii) mining prospecting information, including labour, materials, services, and administrative expenses directly incurred in acquiring the information; and 30

“(b) includes prospecting for minerals by electrical, geochemical, gravimetric, magnetic, radioactive, seismic, or other geological methods; and 35

“(c) does not include—

“(i) the cost of land, plant, or machinery:

“(ii) expenditure referred to in **section DU 9(1)(b) to (d)**:

“(iii) residual expenditure.

“Meaning of mining prospecting information

“(2) **Mining prospecting information** means geological, geophysical, or technical information— 5

“(a) that is about the presence, absence, extent, or volume of listed industrial minerals in an area; or

“(b) that is likely to assist in determining the presence, absence, extent, or volume of listed industrial minerals in an area. 10

“Defined in this Act: land, listed industrial mineral, mineral miner, mining prospecting expenditure, mining prospecting information, residual expenditure

“**DU 11 Meaning of mining exploration expenditure**

Mining exploration expenditure— 15

“(a) means expenditure that a mineral miner incurs in exploring or searching in New Zealand for a listed industrial mineral; and

“(b) includes expenditure that the mineral miner incurs directly in relation to— 20

“(i) acquiring an exploration right or permit under the Crown Minerals Act 1991:

“(ii) geological mapping and geophysical surveys:

“(iii) systematic searches for areas containing listed industrial minerals: 25

“(iv) searching by drilling in areas containing listed industrial minerals:

“(v) searching for ore containing a listed industrial mineral within or in the vicinity of an ore body by crosscuts, drilling, drives, rises, shafts, or winzes; and 30

“(c) does not include—

“(i) the cost of land, plant, or machinery:

“(ii) expenditure referred to in **section DU 9(1)(a), (c), and (d)**: 35

“(iii) residual expenditure.

“Defined in this Act: land, listed industrial mineral, mineral miner, mining exploration expenditure, residual expenditure

mated useful life that does not depend on the remaining assumed life of the mine:	
“(c) expenditure referred to in section DU 9(1)(a), (b), and (d) :	
“(d) residual expenditure.	5
“Defined in this Act: associated mining operations, commercial production, estimated useful life, income, land, listed industrial mineral, mineral miner, mining development expenditure, mining operations, New Zealand, permit area, residual expenditure	
“DU 13 Meaning of mining rehabilitation expenditure	10
Mining rehabilitation expenditure—	
“(a) means—	
“(i) expenditure that a mineral miner incurs in New Zealand directly in relation to the rehabilitation of land that is the permit area of their mining operations or associated mining operations; and	15
“(ii) the rehabilitation is carried out in accordance with the mineral miner’s permit requirements or through an obligation of the mineral miner under the Resource Management Act 1991 or regulations made under that Act; and	20
“(b) includes an amount that the mineral miner pays to restore, or towards restoring, the area of their operations either during or after those operations; and	
“(c) does not include—	25
“(i) the cost of land:	
“(ii) expenditure referred to in section DU 9(1)(a) to (c) :	
“(iii) residual expenditure.	
“Defined in this Act: amount, associated mining operations, land, mineral miner, mining operations, New Zealand, pay, permit area, residual expenditure”.	
(2) Subsection (1) applies for the 2014–15 and later income years.	
36 Section DW 4 amended (Deduction for general insurance outstanding claims reserve)	35
(1) After section DW 4(4), insert:	

“Contracts transferred to insurer

“(4B) If a general insurance contract (the **contract**) is transferred by a non-resident to a New Zealand resident insurer (the **insurer**), the amount of the item opening outstanding claims reserve under subsection (4) for the contract is the amount that the closing outstanding claims reserve for the contract would be for the non-resident if the non-resident were a New Zealand resident.” 5

(2) In section DW 4, list of defined terms, insert “New Zealand resident” and “non-resident”. 10

37 Section DZ 12 repealed (Mineral mining: 1954–2005)

Repeal section DZ 12.

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

(1) After section EW 15D(2)(ab), insert: 15

“(ac) if the financial arrangement is an interest-free loan, no amount is allocated to equity or to profit or loss when the loan is initially entered into, and no interest is allocated subsequent to the initial entry:

“(ad) if the financial arrangement is a loan with a fair value (the **loan initial value**) when the loan is initially entered into that, because of the loan’s interest rate, is less than the fair value (the **consideration initial value**) at that time, of the total amount derived or incurred under the loan, then no amount is allocated to equity or to profit or loss, to the extent to which the amount relates solely to the difference, because of interest rates, between the consideration initial value and the loan initial value. Also, no interest is allocated subsequent to the initial entry on account of a movement in the fair value of the loan, to the extent to which the movement relates solely to the difference, because of interest rates, between the consideration fair value and the loan fair value.” 20 25 30

(2) **Subsection (1)** applies for the 2013–14 and later income years. 35

- 39 Section EX 21 amended (Attributable CFC amount and net attributable CFC income or loss: calculation rules)**
 In section EX 21(28), “Sections BC 7, CU 1 to CU 29, CX 44 to CX 46, CZ 2, CZ 4, DU 1 to DU 12, DZ 12, IS 1 to IS 4” is replaced with “sections **CU 1 to CU 9, DU 1 to DU 13, IS 1, and IS 2**”. 5
- 40 Section EX 29 amended (Attributing interests in FIFs)**
 (1) Replace section EX 29(3) with:
 “*Category 2: FIF superannuation interest*”
 “(3) The second category is a FIF superannuation interest, held as a beneficiary or a member.” 10
 (2) In section EX 29, list of defined terms,—
 (a) insert “FIF superannuation interest”;
 (b) delete “foreign superannuation scheme”.
- 41 Section EX 33 repealed (Exemption for Australian regulated superannuation savings)** 15
 Repeal section EX 33.
- 42 Section EX 42 repealed (New resident’s accrued superannuation entitlement exemption)**
 Repeal section EX 42. 20
- 43 New section EX 42B inserted (Interests in foreign superannuation scheme other than FIF superannuation interests)**
 Before section EX 43, insert:
 “**EX 42B Interests in foreign superannuation scheme other than FIF superannuation interests** 25
 A person’s right to benefit from a foreign superannuation scheme as a beneficiary or a member is not an attributing interest in the foreign superannuation scheme if the right is not a FIF superannuation interest for the person. 30
 “Defined in this Act: attributing interest, FIF superannuation interest, foreign superannuation scheme”.

44 Section EY 5 amended (Part-year tax calculations)

- (1) After section EY 5(4), insert:
“*Class of policies transferred to insurer*”
“(4B) If a class of policies (the **class**) is transferred by a non-resident
to a New Zealand resident life insurer (the **insurer**), the open- 5
ing value of the reserve amounts for the class under sections
EY 23 to EY 27 for the insurer is the closing value that the re-
serve amounts would have for the non-resident if the non-resi-
dent were a New Zealand resident.”
(2) In section EY 5, list of defined terms, insert “New Zealand 10
resident”, and “non-resident”.

**45 Section EY 15 amended (Policyholder base income:
non-participation policies)**

- (1) In section EY 15(1)(b)(iii), replace “policies.” with “policies;
and” and insert: 15
“(iv) is not excluded under **subsection (2)** from being
policyholder base income.”
(2) In section EY 15(2), replace the words before the formula with
“If an amount of investment income meets the requirements of
subsection (1), in the absence of **subsection (1)(b)(iv)**, and 20
of section EY 19, in the absence of section EY 19(1)(d), the
income is excluded from the life insurer’s policyholder base
income to the extent to which it exceeds the amount calculated
using the formula—”.
(3) In section EY 15(3)(a), replace “the income” with “the invest- 25
ment income”.
(4) **Subsections (1) to (3)** apply—
(a) on and after 1 July 2010, unless **paragraph (b)** applies:
(b) for an income year that includes 1 July 2010 and later 30
income years, if the life insurer chose to apply the life
insurance rules in the Taxation (International Taxation,
Life Insurance, and Remedial Matters) Act 2009 in a
return of income for the tax year corresponding to the
first relevant income year.

- 46 Section EY 17 amended (Policyholder base income: profit participation policies)**
- (1) In section EY 17(2)(c), replace “present value (net)”, in each place where it appears, with “present value (actuarial net)”.
 - (2) In section EY 17, list of defined terms,— 5
 - (a) insert “present value (actuarial net)”:
 - (b) delete “present value (net)”.
 - (3) **Subsection (1)** applies—
 - (a) on and after 1 July 2010, unless **paragraph (b)** applies:
 - (b) for an income year that includes 1 July 2010 and later income years, if the life insurer chose to apply the life insurance rules in the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 in a return of income for the tax year corresponding to the first relevant income year. 10
15
- 47 Section EY 19 amended (Shareholder base income: non-participation policies)**
 In section EY 19(3), replace “EY 23 to EY 29” with “EY 23 to EY 27”.
- 48 Section EY 20 amended (Shareholder base allowable deductions: non-participation policies)** 20
 In section EY 20(2), replace “EY 23 to EY 29” with “EY 23 to EY 27”.
- 49 Section EY 21 amended (Shareholder base income: profit participation policies)** 25
- (1) In section EY 21(2)(c), replace “present value (net)” with “present value (actuarial net)” in each place where it appears.
 - (2) In section EY 21, list of defined terms,—
 - (a) insert “present value (actuarial net)”:
 - (b) delete “present value (net)”.30
 - (3) **Subsection (1)** applies—
 - (a) on and after 1 July 2010, unless **paragraph (b)** applies:
 - (b) for an income year that includes 1 July 2010 and later income years, if the life insurer chose to apply the life insurance rules in the Taxation (International Taxation, 35

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

- 50 Section EY 24 amended (Outstanding claims reserving amount: non-participation policies not annuities)** 5
- (1) In section EY 24(4)(a),—
- (a) replace “present values (gross)” with “present values (risk-free gross)”:
- (b) replace “present value (gross)” with “present value (risk-free gross)”. 10
- (2) In section EY 24(4)(b), replace “present values (gross)” with “present values (risk-free gross)” in each place where it appears.
- (3) In section EY 24, list of defined terms,—
- (a) delete “present value (gross)”: 15
- (b) insert “present value (risk-free gross)”.
- (4) **Subsections (1) and (2)** apply—
- (a) on and after 1 July 2010, unless **paragraph (b)** applies:
- (b) for an income year that includes 1 July 2010 and later income years, if the life insurer chose to apply the life insurance rules in the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 in a return of income for the tax year corresponding to the first relevant income year. 20
- 51 Section EY 28 amended (Shareholder base other profit: profit participation policies that are existing business)** 25
- (1) In section EY 28(5)(b), replace “present value (net)” with “present value (risk-free net)”.
- (2) In section EY 28(5)(d), replace “present value (net)” with “present value (risk-free net)”. 30
- (3) In section EY 28(6), replace “present value (net)” with “present value (risk-free net)” in each place where it appears.
- (4) In section EY 28, list of defined terms,—
- (a) delete “present value (net)”:
- (b) insert “present value (risk-free net)”. 35
- (5) **Subsections (1) to (3)** apply—

- (a) on and after 1 July 2010, unless **paragraph (b)** applies:
- (b) for an income year that includes 1 July 2010 and later income years, if the life insurer chose to apply the life insurance rules in the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 in a return of income for the tax year corresponding to the first relevant income year. 5

52 Section EY 29 amended (Shareholder base other profit: profit participation policies that are new business)

- (1) In section EY 29(6)(b), replace “present value (net)” with “present value (risk-free net)”. 10
- (2) In section EY 29(6)(d), replace “present value (net)” with “present value (risk-free net)”.
- (3) In section EY 29(8), replace “present value (net)” with “present value (risk-free net)” in each place where it appears. 15
- (4) In section EY 29, list of defined terms,—
 - (a) delete “present value (net)”:
 - (b) insert “present value (risk-free net)”.
- (5) **Subsections (1) to (3)** apply—
 - (a) on and after 1 July 2010, unless **paragraph (b)** applies: 20
 - (b) for an income year that includes 1 July 2010 and later income years, if the life insurer chose to apply the life insurance rules in the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 in a return of income for the tax year corresponding to the first relevant income year. 25

53 Section EZ 56 amended (Expected death strain formula (life): when annuity payable on death)

- (1) In section EZ 56(2), replace “present value (net)” with “present value (risk-free net)” in each place where it appears. 30
- (2) In section EZ 56, list of defined terms,—
 - (a) delete “present value (net)”:
 - (b) insert “present value (risk-free net)”.
- (3) **Subsection (1)** applies—
 - (a) on and after 1 July 2010, unless **paragraph (b)** applies: 35

- (b) for an income year that includes 1 July 2010 and later income years, if the life insurer chose to apply the life insurance rules in the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 in a return of income for the tax year corresponding to the first relevant income year. 5

54 Section EZ 57 amended (Expected death strain formulas: when annuity payable on survival to date or age specified in policy)

- (1) In section EZ 57(3), replace “present value (net)” with “present value (risk-free net)” in each place where it appears. 10
- (2) In section EZ 57, list of defined terms,—
 - (a) delete “present value (net)”;
 - (b) insert “present value (risk-free net)”.
- (3) **Subsection (1)** applies— 15
 - (a) on and after 1 July 2010, unless **paragraph (b)** applies;
 - (b) for an income year that includes 1 July 2010 and later income years, if the life insurer chose to apply the life insurance rules in the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 in a return of income for the tax year corresponding to the first relevant income year. 20

55 New section EZ 64 inserted (IFRS financial reporting method: interest-free and low-interest loans)

- (1) After section EZ 63, insert: 25

“EZ 64 IFRS financial reporting method: interest-free and low-interest loans

“When this section applies

 - “(1) This section applies when—
 - “(a) **section EW 15D(2)(ac)** (IFRS financial reporting method) modifies an IFRS rule so that the person does not allocate interest for a financial arrangement for the 2014–15 income year; and 30
 - “(b) the person has allocated, for the financial arrangement for the 2012–13 income year, an amount that the 35

person would not be allowed to allocate if **section
EW 15D(2)(ac)** applied for the 2012–13 income year.

“Change of spreading method

- “(2) The change from the allocation treatment described in **sub-section (1)(b)** (the **old method**) to the non-allocation treatment described in **subsection (1)(a)** (the **new method**) is treated as a change for the 2014–15 income year under section EW 26(2). Sections EW 26(3), (4) and EW 27 apply accordingly, but section EW 26(6) does not apply. 5
- “Defined in this Act: financial arrangement, income year, IFRS”. 10
- (2) **Subsection (1)** applies for the 2014–15 and later income years.
- 56 Section FB 20 repealed (Mining assets)**
- Repeal section FB 20.
- 57 Section FB 21 amended (Depreciable property)** 15
- (1) Repeal section FB 21(2).
- (2) In section FB 21, list of defined terms, delete “resident mining operator”.
- 58 Section FM 31 amended (Eligibility rules)**
- (1) Replace section FM 31(2)(b) with: 20
- “(b) a mineral miner that is a company.”
- (2) In section FM 31, list of defined terms,—
- (a) insert “mineral miner”;
- (b) delete “mining company”.
- 59 Section FN 4 amended (Eligibility rules)** 25
- (1) Replace section FN 4(3)(b) with:
- “(b) a mineral miner that is a company.”
- (2) In section FN 4, list of defined terms,—
- (a) insert “mineral miner”;
- (b) delete “mining company”. 30

- 60 Heading before section GB 20 replaced (Arrangements involving petroleum mining)**
 Replace the cross heading before section GB 20 with “*Arrangements involving petroleum and mineral mining*”.
- 61 Section GB 20 replaced (Arrangements involving petroleum mining)** 5
- (1) Replace section GB 20 with:
“GB 20 Arrangements involving petroleum and mineral mining
“When this section applies
“(1) This section applies when— 10
“(a) an arrangement includes—
“(i) the disposal of a petroleum mining asset or a mineral mining asset (the **mining asset); or**
“(ii) the incurring of petroleum exploration expenditure or 1 or more of the classes of mineral mining expenditure referred to in **section DU 9 (Classes of mineral mining expenditure) (the **mining expenditure**):** 15
“(iii) a farm-out arrangement; and
“(b) the arrangement has a purpose or effect of tax avoidance. 20
“Applying section GA 1
“(2) The Commissioner may apply section GA 1 (Commissioner’s power to adjust) to adjust the taxable income of a person affected by the arrangement so as to counteract a tax advantage obtained by the person. 25
“Examples
“(3) Without limiting the generality of **subsection (1), arrangements having the effect of tax avoidance include the arrangements described in **subsections (4) to (8)**.** 30
“Person acquiring asset relieved or compensated
“(4) An arrangement has the effect of tax avoidance if it involves the disposal of a mining asset and it is probable that, at the time the arrangement is entered into, the person acquiring the mining asset— 35

- “(a) will, through a related arrangement, not have to suffer some or all of the expenditure of acquiring the mining asset; or
- “(b) will be effectively compensated in some way for some or all of the expenditure. 5
- “Person incurring expenditure relieved or compensated*
- “(5) An arrangement has the effect of tax avoidance if it involves the incurring of mining expenditure and it is probable that, at the time the arrangement is entered into, the person who is to incur the mining expenditure— 10
- “(a) will, through a related arrangement, not have to suffer some or all of the mining expenditure; or
- “(b) will be effectively compensated in some way for some or all of the mining expenditure.
- “Farm-in party relieved or compensated* 15
- “(6) An arrangement has the effect of tax avoidance if it involves a farm-out arrangement and it is probable that, at the time the arrangement is entered into,—
- “(a) the farm-in party will, through a related arrangement, not have to suffer some or all of the farm-in expenditure attributable to the proportionate interest acquired by the farm-in party under the farm-out arrangement; or 20
- “(b) the farm-in party or an associated person will be effectively compensated in some way for some or all of the farm-in expenditure. 25
- “Disposal of asset to associated person for over-value*
- “(7) An arrangement has the effect of tax avoidance if it involves a petroleum miner or mineral miner disposing of a mining asset to an associated person for a purpose of ensuring that the associated person has a greater deduction than would have been allowed if the asset had been disposed of for its market value. 30
- “Farm-out arrangement with associate person for over-value*
- “(8) An arrangement has the effect of tax avoidance if it involves a petroleum miner or a mineral miner entering into a farm-out arrangement with an associated person for the purpose of ensuring that the associated person has a greater deduction than would have been allowed if the farm-out arrangement had been entered into on substantially the same terms as those on 35

which it would have been entered into with a person who is not associated.

“Miners operating offshore

“(9) This section applies, with the necessary modifications to a petroleum miner or a mineral miner who undertakes mining operations or that are— 5

“(a) outside New Zealand and undertaken through a branch or CFC; and

“(b) substantially the same as the mining activities governed by this Act. 10

“Treatment of partners

“(10) For the purposes of this section, a partner is treated as having a share or interest in a petroleum permit, exploration permit, prospecting permit, or mining permit, as applicable, or other property of a partnership to the extent of their income interest in the partnership. 15

“Disposal of part of asset

“(11) For the purposes of this section, references to the disposal of an asset apply equally to the disposal of part of an asset.

“Defined in this Act: arrangement, associated person, CFC, deduction, dispose, farm-in expenditure, farm-out arrangement, mineral miner, mineral mining asset, mining permit, New Zealand, petroleum exploration expenditure, petroleum mining asset, petroleum permit, tax avoidance, taxable income” 20

(2) **Subsection (1)** applies for the 2014–15 and later income years. 25

62 Section GB 32 amended (Benefits provided to employee’s associates)

Replace section GB 32(2B)(a)(i) with:

“(i) a look-through company (an LTC):”.

63 Section GB 44 amended (Arrangements involving tax credits for families) 30

(1) Replace section GB 44(1)(a) with:

“(a) a person enters into an arrangement:”.

(2) In section GB 44(1)(b), delete “for the claimant”.

(3) In section GB 44(2), replace “the claimant’s” with “A”. 35

- 64 Section GZ 1 amended (Limitation on section GB 20: petroleum mining arrangements)**
In section GZ 1, replace “(Arrangements involving petroleum mining)” with “(Arrangements involving petroleum mining and mineral mining)”. 5
- 65 Section HA 4 amended (Conditions applying)**
(1) In section HA 4(2), replace “Sections HA 11 and HA 12 apply” with “Section HA 11 applies”.
(2) **Subsection (1)** applies for the 2008–09 and later income years. 10
- 66 Section HC 15 amended (Taxable distributions from non-complying and foreign trusts)**
(1) After section HC 15(4)(c), insert:
“(cb) a foreign superannuation withdrawal; or”.
(2) In section HC 15, list of defined terms, insert “foreign superannuation withdrawal”. 15
- 67 Section HC 27 amended (Who is a settlor?)**
After section HC 27(3B), insert:
“*Contributions to foreign superannuation scheme*”
“(3C) Despite subsection (2), a person who makes a contribution to a trust that is a foreign superannuation scheme is not a settlor of the trust.” 20
- 68 Section HM 8 amended (Residence in New Zealand)**
In section HM 8, in the list of defined terms, insert “foreign investment zero-rate PIE”. 25
- 69 Section HM 11 amended (Investment types)**
In section HM 11, in the list of defined terms, insert “foreign investment variable-rate PIE” and “foreign investment zero-rate PIE”.

- 70 Section HM 12 amended (Income types)**
 In section HM 12, in the list of defined terms, insert “foreign investment variable-rate PIE” and “foreign investment zero-rate PIE”.
- 71 Section HM 13 amended (Maximum shareholdings in investments)** 5
 In section HM 13, in the list of defined terms, insert “foreign investment variable-rate PIE”.
- 72 Section HM 50 amended (Attributing credits to investors)**
 (1) In section HM 50(5)(a), replace “section LP 2(1)(a)” with “section LP 2(1)(c)” 10
 (2) **Subsection (1)** applies for the 2013–14 and later income years.
- 73 Section HM 55FB amended (Notified foreign investors and tax credits for supplementary dividends)** 15
 (1) In section HM 55FB(1)(b), replace “section LP 2(1)(a)” with “section LP 2(1)(c)”.
 (2) **Subsection (1)** applies for the 2013–14 and later income years.
- 74 Section HM 72 amended (When elections take effect)** 20
 In section HM 72(1), replace “applicable” with “applicable,”.
- 75 Section HR 8 amended (Transitional residents)**
 In section HR 8(1)(a), insert “CF 3,” after “CE 2,”.
- 76 Section IA 7 amended (Restrictions relating to ring-fenced tax losses)** 25
 (1) In section IA 7(7),—
 (a) replace “a mining company, a resident mining operator, or a non-resident mining operator” with “a mineral miner”:
 (b) replace “mining companies’ tax losses” with “mineral miner’s tax losses” 30
 (2) In section IA 7, in the list of defined terms,—

- (a) delete “mining company”, “non-resident mining operator” and “resident mining operator”:
- (b) insert “mineral miner”.

77 Section ID 1 amended (Treatment of tax losses by consolidated groups) 5

- (1) In section ID 1(2), replace “mining companies” with “mining companies or mineral miners”.
- (2) In section ID 1, list of defined terms, insert “mineral miner”.

78 Heading to subpart IS replaced (Mining companies’ and petroleum miner’s tax losses) 10

Replace the heading to subpart IS with “Mineral miners’ and petroleum miners’ tax losses”.

79 Section IS 1 amended (General treatment of mining company’s net losses)

- (1) Replace the heading to section IS 1 with “**General treatment of mineral miners’ net losses**” 15

- (2) In section IS 1(1), replace “mining company” with “mineral miner”.

- (3) In section IS 1(2), replace “mining company” with “mineral miner” 20

- (4) Replace section IS 1(3), other than the heading, with:

“(3) For the purposes of this subpart, a **net mining loss** means that part of a net loss of a mineral miner that is described in section IA 7(7) (Restrictions relating to ring-fenced tax losses).”

- (5) In section IS 1, in the list of defined terms,— 25

- (a) delete “mining company”:
- (b) insert “mineral miner”.

80 Section IS 2 amended (Treatment of net losses resulting from certain expenditure)

- (1) In section IS 2(1), replace “a mining company, or a resident mining operator, or a non-resident mining operator” with “a mineral miner” 30

- (2) In section IS 2(3), replace “the mining company’s” with “the mineral miner’s”.

- (3) In section IS 2, in the list of defined terms,—
- (a) delete “mining company”, “non-resident mining operator” and “resident mining operator”;
 - (b) insert “mineral miner”.
- 81 Section IS 3 repealed (Holding companies’ tax losses) 5**
 Repeal section IS 3.
- 82 Section IS 4 repealed (Adjustments in certain circumstances)**
 Repeal section IS 4.
- 83 Section IS 6 amended (When company stops being mining company) 10**
- (1) In the heading to section IS 6, replace “**mining company**” with “**mineral miner**”.
 - (2) In section IS 6,—
 - (a) replace “sections IS 1 to IS 5” with “sections IS 1 and IS 2”;
 - (b) replace “mining company” with “mineral miner” in each place where it appears.
 - (3) In section IS 6, in the list of defined terms,—
 - (a) delete “mining company”;
 - (b) insert “mineral miner”.
- 84 Section IV 1 amended (Supplementary dividend holding companies)**
 In section IV 1(2) replace “IC 5, IS 3, or IS 4” with “or IC 5”.
- 85 Section LA 6 amended (Remaining refundable credits: PAYE, RWT, and certain other items) 25**
- (1) After section LA 6(1)(f), insert:
 “(g) **section LU 1** (Tax credits for mineral miners).”
 - (2) **Subsection (1)** applies for the 2014–15 and later income years.

- 86 New section LE 8B inserted (Dividends from certain FIF interests)**
- After section LE 8, insert:
- “LE 8B Dividends from certain FIF interests**
- “When this section applies* 5
- “(1) This section applies when a person has assessable income for the purposes of section LE 1 because section LE 1(4B) applies (the **LE 1(4B) income**), and the LE 1(4B) income includes an imputation credit.
- “Tax credit limited* 10
- “(2) The person’s tax credit for the imputation credit is limited to the lesser of the imputation credit and the following amount:
- imputation ratio × FIF income.
- “Definition of items in formula*
- “(3) In the formula,—
- “(a) **imputation ratio** is the imputation ratio given by section OB 60 (Imputation credits attached to dividends) if the relevant amount of LE 1(4B) income is treated as a dividend, and the imputation credit is attached to it. 15
- “(b) **FIF income** is the person’s FIF income for the income year in which the imputation credit is received, to the extent to which the FIF income is for the attributing interest for which the imputation credit is received. 20
- “Defined in this Act: assessable income, attributing interest, dividend, FIF income, imputation credit, imputation ratio, income year, tax credit”.
- 87 Section LR 1 repealed (Tax credits for policyholder income)** 25
- (1) Repeal section LR 1.
- (2) **Subsection (1)** applies for the 2014–15 and later income years.
- 88 New subpart LU inserted (Tax credits for mineral miners)** 30
- (1) After section LS 4, insert:

“Subpart LU—Tax credits for mineral
miners

“LU 1 Tax credits for mineral miners

“*When this section applies*

“(1) This section applies for an income year when— 5

“(a) either—

“(i) a mineral miner incurs an amount of mining re-
habilitation expenditure in relation to a permit
area; or

“(ii) a mineral miner derives an amount under **sec-
tion CU 2** (Treatment of mining land) from the
disposal of land or an interest in land in a permit
area, and the amount the mineral miner derives
from the disposal is less than the consideration
that the mineral miner paid to acquire the land or 10
interest in land; and 15

“(b) after taking into account the amounts referred to in
paragraph (a)(i) and (ii), the mineral miner has a tax
loss for the corresponding tax year.

“*Amount of tax credit* 20

“(2) The mineral miner has a tax credit for the tax year for an
amount calculated using the formula—

expenditure or loss × tax rate.

“*Definition of items in formula*

“(3) In the formula,—

“(a) **expenditure or loss** is the lesser of— 25

“(i) the sum of the amounts referred to in **subsec-
tion (1)(a)(i) and (ii)**:

“(ii) the mineral miner’s tax loss for the corresponding
tax year:

“(b) **tax rate** is the basic rate of income tax set out in sched- 30
ule 1, part A (Basic tax rates: income tax, ESCT, RSCT,
RWT, and attributed fringe benefits).

“*Maximum amount*

“(4) Despite **subsection (2)**, the amount of the tax credit must be 35
no more than the income tax liability that the mineral miner

has or had in relation to the permit area for all income years for which the miner derived income from the permit area.

“Treatment of tax loss

- “(5) To the extent to which the mineral miner has a tax credit under this section, the amount of the tax loss giving rise to the credit does not form part of either a tax loss component or a net mining loss for the mineral miner. 5

“Nature of tax credit

- “(6) The tax credit is available for use under section LA 6(2) (Remaining refundable credits: PAYE, RWT, and certain other items). 10

“Relationship with other sections

- “(7) **Subsection (5)** overrides sections IA 2 and IA 7 (which relate to losses generally) and IS 1, IS 2, and IS 6 (which relate to tax losses for mineral mining). 15

“Defined in this Act: amount, income, income tax, income tax liability, income year, interest, land, mineral miner, mining rehabilitation expenditure, net mining loss, pay, permit area, tax credit, tax loss, tax loss component, tax year”.

- (2) **Subsection (1)** applies for the 2014–15 and later income years. 20

89 Section MA 8 amended (Some definitions for family scheme)

- (1) In section MA 8, in the definition of **family scheme income**, replace “an amount calculated under subpart MB (Adjustment of net income for family scheme)” with “the amount, described in section MB 1 (Adjustments for calculation of family scheme income), based on a person’s net income and adjusted as provided by subpart MB (Adjustment of net income for family scheme),”. 25

- (2) **Subsection (1)** applies for the 2014–15 and later income years. 30

90 Section MB 1 amended (Adjustments for calculation of family scheme income)

- (1) Replace the heading of section MB 1(1) and the words before the paragraphs in MB 1(1) with: 35

“Family scheme income: derivation

- “(1) The calculation of an entitlement and tax credit under the family scheme is based on a person’s family scheme income. A person’s family scheme income is an amount based on their net income, and is adjusted as provided by this subpart. The following paragraphs apply in relation to assessable income derived by the person in a relationship period in an income year.” 5
- (2) **Subsection (1)** applies for the 2014–15 and later income years. 10

91 Section MB 4 replaced (Family scheme income of major shareholders in close companies)

- (1) Replace section MB 4 with:
“MB 4 Family scheme income of major shareholders in close companies” 15

“When this section applies

- “(1) This section applies for the purposes of determining the amount that is included in the family scheme income of a person for an income year when the person is a major shareholder in a close company on the last day of the company’s balance date for financial purposes. 20

“Income amount

- “(2) The amount included in the person’s family scheme income is the greater of zero and the amount given by the formula in **subsection (3)**. 25

“Formula

- “(3) For the purposes of **subsection (2)** the amount is given by the following formula:

$$\frac{\text{person's shares + attributed shares}}{\text{company's shares}} \times (\text{company's income} - \text{dividends}).$$

“Formula: attributed shares

- “(4) For the purposes of the formula in **subsection (3)**, the item **attributed shares** is given by the following formula: 30

dependent child shares

relevant major shareholders.

“Definition of items in formulas

- “(5) In the formulas in **subsections (3) and (4)**,—
- “(a) **person’s shares** is the number of shares issued by the company and held by the person, excluding fixed-rate shares, on the last day of the company’s accounting year: 5
- “(b) **attributed shares** is the amount given by the formula in **subsection (4)**:
- “(c) **company’s shares** is the number of shares issued by the company, excluding fixed rate shares, on the last day of the company’s accounting year: 10
- “(d) **company’s income** is the net income of the company for the company’s accounting year:
- “(e) **dividends** is the total dividends paid by the company for the company’s accounting year: 15
- “(f) **dependent child shares** is the number of shares issued by the company and held by dependent children (the **dependent children**) of the person or of the person’s spouse, civil union partner, or de facto partner, excluding fixed rate shares, on the last day of the company’s accounting year: 20
- “(g) **relevant major shareholders** is the total number of the following people who are major shareholders of the company on the last day of the company’s accounting year: 25
- “(i) the person:
- “(ii) the person’s spouse, civil union partner, or de facto partner:
- “(iii) principal caregivers of the dependent children, unless described in **subparagraphs (i) and (ii)**. 30
- “Defined in this Act: accounting year, amount, civil union partner, close company, de facto partner, dependent child, dividend, family scheme income, income year, major shareholder, net income, share, spouse”.
- (2) **Subsection (1)** applies for the 2014–15 and later income years. 35

- 92 Section MB 7 amended (Family scheme income of settlor of trust)**
- (1) In section MB 7(4)(d), replace “person’s trust” with “person’s trust who are alive at any time in the income year”.
- (2) **Subsection (1)** applies for the 2014–15 and later income years. 5
- 93 Section MC 6 amended (When person does not qualify)**
 In section MC 6, in the list of defined terms, delete “veteran’s pension”.
- 94 Section MD 1 amended (Abating WFF tax credit)** 10
 Replace section MD 1(3)(d)(i) with:
 “(i) a family credit abatement calculated using the formula in section MD 13(2); and”.
- 95 Section MD 2 amended (Calculating net contributions to credits)** 15
 Repeal section MD 2(3).
- 96 Section MD 12 amended (Calculation of parental tax credit)**
- (1) Replace section MD 12(3)(b) with:
 “(b) **days** is the number of days in the parental entitlement period for which the person meets the requirements of section MD 11.” 20
- (2) In section MD 12, list of defined terms, delete “civil union partner”, “de facto partner”, “income-tested benefit”, “social assistance payment”, and “spouse”. 25
- (3) **Subsection (1)** applies for the 2014–15 and later income years.
- 97 Section MD 13 amended (Calculation of family credit abatement)**
 In section MD 13(4), in the words before the paragraphs, delete “fortnightly”. 30

- 98 Section MD 16 amended (Calculation of parental tax credit abatement)**
- (1) Replace section MD 16(1)(b) and (c) with:
- “(b) the credit is paid in a lump sum for the tax year of the birth; and 5
 - “(c) the birth occurs less than 56 days before the end of the tax year; and
 - “(d) a day in an entitlement period is in the parental entitlement period.”
- (2) Replace sections MD 16(2) and (3) with: 10
- “Amount of additional abatement*
- “(2) An additional amount of abatement for the parental tax credit is calculated for the tax year of the birth using the formula:
- daily parental tax credit abatement × extra entitlement days.
- “Definition of items in formula*
- “(3) In the formula,— 15
- “(a) **daily parental tax credit abatement** is the amount by which the person’s parental tax credit would be reduced by a family credit abatement calculated as if for the person and an entitlement period consisting of—
 - “(i) the last day of the last entitlement period in the part of the parental entitlement period in the tax year of the birth, if there is an entitlement period in that part of the parental entitlement period: 20
 - “(ii) the first day of the first entitlement period in the part of the parental entitlement period in the tax year after the tax year of the birth, if **subparagraph (i)** does not apply: 25
 - “(b) **extra entitlement days** is the number of days, each of which is—
 - “(i) in the parental entitlement period; and 30
 - “(ii) in an entitlement period in the tax year following the tax year of the birth.”
- (3) **Subsection (1)** applies for the 2014–15 and later income years.

99 Section OB 1 amended (General rules for companies with imputation credit accounts)

- (1) In section OB 1(1), replace the first sentence with “A company that is resident in New Zealand is a company (an **ICA company**) that must establish and maintain an imputation credit account for a tax year.” 5
- (2) **Subsection (1)** applies for the 2008–09 and later income years.

100 Section OB 47 amended (Debit for policyholder base imputation credits) 10

- (1) Replace section OB 47(1), other than the heading, with:
- “(1) An ICA company has an imputation debit for the amount of an imputation credit attached to a dividend derived by the company, to the extent to which it is—
- “(a) derived by it as a life insurer; and 15
- “(b) apportioned to their policyholder base; and
- “(c) not affected by a debit under section OB 41.”
- (2) **Subsection (1)** applies—
- (a) on and after 1 July 2010, unless **paragraph (b)** applies:
- (b) for an income year that includes 1 July 2010 and later income years, if the life insurer chose to apply the life insurance rules in the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 in a return of income for the tax year corresponding to the first relevant income year. 25

101 Section OP 44 amended (Consolidated ICA debit for policyholder base imputation credits)

- (1) Replace section OP 44(1), other than the heading, with:
- “(1) A consolidated imputation group has an imputation debit for the amount of an imputation credit attached to a dividend derived by a group company, to the extent to which it is— 30
- “(a) derived by a group company that is a life insurer; and
- “(b) apportioned to that life insurer’s policyholder base; and
- “(c) not affected by a debit under section OP 42.”
- (2) **Subsection (1)** applies— 35
- (a) on and after 1 July 2010, unless **paragraph (b)** applies:

- (b) for an income year that includes 1 July 2010 and later income years, if the life insurer chose to apply the life insurance rules in the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 in a return of income for the tax year corresponding to the first relevant income year. 5

102 Section RD 5 amended (Salary or wages)

- (1) In section RD 5(5B), insert as the subsection heading “*Sum payable after office of Governor-General becomes vacant*”.
- (2) In section RD 5, list of defined terms, insert “employee”. 10

103 Section YA 1 amended (Definitions)

- (1) This section amends section YA 1.
- (2) Repeal the definition of **asset**.
- (3) In the definition of **associated mining operations**, replace “section CU 29 (Other definitions)” with “**section CU 7(2)** (Some definitions)”. 15
- (4) Replace the definition of **Australian ICA company** with:
“**Australian ICA company** is a company that must establish and maintain an imputation credit account under section OB 2 (Australian companies with imputation credit accounts)”. 20
- (5) Replace the definition of **commercial production** with:
“**commercial production**—
“(a) for petroleum mining, means the production in commercial quantities on a continuing basis of petroleum in a state suitable for delivery to a buyer, consumer, processor, refinery, or user: 25
“(b) for mineral mining, means the extraction of a listed industrial mineral from a permit area and the production of the mineral in commercial quantities on a continuing basis to a stage at which it is in a saleable form and suitable location for delivery to a buyer, consumer, processor, or user”. 30
- (6) In the definition of **dispose**, paragraph (c), replace “non-specified mineral” with “certain minerals”.
- (7) Replace the definition of **farm-out arrangement** with— 35

“farm-out arrangement:

- “(a) means an arrangement between a petroleum miner or a mineral miner (the **farm-out party**) and a person (the **farm-in party**) under which the farm-in party agrees that they will incur expenditure in doing work or paying for work done in or for the permit area of the farm-out party’s petroleum permit, exploration permit, prospecting permit, or mining permit, as applicable, (the **permit**), after the arrangement is made and, in return, they—
 - “(i) acquire an interest in the farm-out party’s permit: 5
 - “(ii) receive a right or option to acquire an interest in the farm-out party’s permit: 10
 - “(iii) become entitled in another way to acquire an interest in the farm-out party’s permit: 15
 - “(iv) become entitled to a direct or indirect interest in petroleum or a listed industrial mineral, as applicable, from the permit area of the farm-out party’s permit: 20
 - “(v) become entitled to a direct or indirect interest in the profits, however measured, from petroleum or a listed industrial mineral, as applicable, from the permit area of the farm-out party’s permit: 25
 - “(vi) become entitled to a direct or indirect right to reimbursement from petroleum or a listed industrial mineral, as applicable, from the permit area of the farm-out party’s permit: 30
 - “(vii) become entitled to a direct or indirect right to reimbursement from the profits, however measured from petroleum or a listed industrial mineral, as applicable, from the permit area of the farm-out party’s permit: 35
 - “(viii) become entitled to a rental, royalty, or other consideration of whatever nature calculated by reference to petroleum or a listed industrial mineral, as applicable, from the permit area of the farm-out party’s permit: 35
 - “(ix) become entitled to a rental, royalty, or other consideration of whatever nature calculated by refer-

- ence to the profits, however, measured, from petroleum or a listed industrial mineral, as applicable, from the permit area of the farm-out party's permit:
- “(b) is defined in section CZ 8(2) (Farm-out arrangements for petroleum mining before 16 December 1991) for the purposes of that section: 5
 - “(c) is defined in section DZ 5(6) (Farm-out arrangements for petroleum mining before 16 December 1991) for the purposes of that section”. 10
- (8) In the definition of **FDP rules**, replace paragraph (d) with:
“(d) section YA 2(5) to (7) (Meaning of income tax varied)”.
- (9) Insert, in the appropriate alphabetical order:
“**FIF superannuation interest** means, for a person and an income year (the **current year**), an interest held by the person, in a foreign superannuation scheme as a beneficiary or member,— 15
- “(a) that is an attributing interest for an income year (the **qualifying year**) ending before 1 April 2014; and
 - “(b) producing, for the qualifying year, FIF income or loss included by the person in a return of income filed before the day on which the **Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Bill** was introduced; and 20
 - “(c) held by the person for the period (the **qualifying period**) from the end of the qualifying year to the beginning of the current year; and 25
 - “(d) for which the person includes all FIF income or loss under the FIF rules in returns of income for the qualifying year and income years after the qualifying period”. 30
- (10) Insert, in the appropriate alphabetical order:
“**foreign defined contribution scheme** means a foreign superannuation scheme that operates on the principle of allocating contributions to the scheme on a defined basis to individual members”. 35
- (11) Insert, in the appropriate alphabetical order:
“**foreign superannuation withdrawal** means a benefit for a person from a foreign superannuation scheme to which **sec-**

- tion CF 3** (Withdrawals from foreign superannuation scheme) applies”.
- (12) In the definition of **holding company**, repeal paragraph (b).
- (13) Replace the definition of **ICA company** with:
“**ICA company** means a company that must establish and maintain an imputation credit account—
“(a) under section OB 1 (General rules for companies with imputation credit accounts):
“(b) as an Australian ICA company under section OB 2 (Australian companies with imputation credit accounts)”.
- (14) Repeal the definition of **income from mining**.
- (15) In the definition of **initial treatment**, replace “section CU 29 (Other definitions)” with “**section CU 7(3)** (Some definitions)”.
- (16) Insert, in appropriate alphabetical order:
“**limited recourse arrangement** is defined in **section DB 31(5B)** (Bad debts) for the purposes of that section”.
- (17) Insert, in appropriate alphabetical order:
“**listed industrial mineral** is defined in **section CU 8** (Meaning of listed industrial mineral)”.
- (18) In the definition of **loan**, repeal paragraph (c).
- (19) Insert, in appropriate alphabetical order:
“**mineral mining asset** is defined in **section CU 9** (Some definitions)”.
- (20) Repeal the definition of **mining company**.
- (21) In the definition of **mining development expenditure**, replace “section CU 23 (Meaning of mining development expenditure)” with “**section DU 12** (Meaning of mining development expenditure)”.
- (22) In the definition of **mining exploration expenditure**, replace “section CU 24 (Meaning of mining exploration expenditure)” with “**section DU 11** (Meaning of mining exploration expenditure)”.
- (23) Repeal the definition of **mining holding company**.

- (24) In the definition of **mining operations**, replace “section CU 25 (Meaning of mining operations)” with “**section CU 7(1)** (Some definitions)”.
- (25) In the definition of **mining or prospecting right**, replace “section CU 29 (Other definitions)” with “**section CU 9(4)** (Some definitions)” 5
- (26) Repeal the definition of **mining outgoing excess**.
- (27) Replace the definition of **mining permit** with:
“**mining permit** is defined in section 2 of the Crown Minerals Act 1991”. 10
- (28) Repeal the definition of **mining permit area**.
- (29) Insert, in appropriate alphabetical order:
“**mining prospecting expenditure** is defined in **section DU 10** (Some definitions)”.
- (30) In the definition of **mining prospecting information**, replace 15
“section CU 29 (Other definitions)” with “**section DU 10(2)** (Some definitions)”.
- (31) Repeal the definition of **mining purposes**.
- (32) Insert, in the appropriate alphabetical order:
“**mining rehabilitation expenditure** is defined in **section DU 13** (Meaning of mining rehabilitation expenditure)” 20
- (33) Repeal the definition of **mining share**.
- (34) Repeal the definition of **mining venture**.
- (35) In the definition of **net mining loss**, replace “(General treatment of mining companies’ net losses) for the purposes of 25
subpart IS (Mining companies’ and petroleum miners’ tax losses)” with “(General treatment of mineral miners’ net losses) for the purposes of subpart IS (Mineral miners’ and petroleum miners’ tax losses)”.
- (36) Repeal the definition of **non-resident mining operator**. 30
- (37) In the definition of **NZIAS 28**, replace “by the Accounting Standards Review Board” with “or issued under the Financial Reporting Act 1993”.
- (38) In the definition of **NZIAS 31**, replace “by the Accounting Standards Review Board” with “or issued under the Financial 35
Reporting Act 1993”.

- (39) In the definition of **partnership share**, replace “partner has the partnership it” with “partner has in the partnership”.
- (40) Replace the definition of **permit area** with:
 “**permit area** means an area of land, and may include more than 1 area, of, as applicable,— 5
 “(a) a petroleum permit:
 “(b) a mining permit or an existing privilege referred to in paragraphs (a) and (b) of the definition of existing privilege in section 106 of the Crown Minerals Act 1991”.
- (41) Repeal the definition of **prescribed amount**. 10
- (42) Repeal the definition of **prescribed period**.
- (43) Repeal the definition of **prescribed proportion**.
- (44) Insert, in the appropriate alphabetical order:
 “**present value (actuarial net)**, for a life insurer, means—
 “(a) a present value actuarially determined using a discount rate, net of tax, based on market returns for the asset base and used in the life insurer’s financial statements; but 15
 “(b) face value, if the discount period is less than a year”.
- (45) In the definition of **present value (gross)**, replace “**gross**” with “**risk-free gross**”. 20
- (46) In the definition of **present value (net)**, replace “**net**” with “**risk-free net**”.
- (47) Repeal the definition of **reinvestment profit**.
- (48) Repeal the definition of **resident mining operator**. 25
- (49) In the definition of **residual expenditure**, replace paragraph (b)(i) with:
 “(i) an application fee payable to the Crown for a petroleum permit, exploration permit, mining permit, or prospecting permit; or” 30
- (50) In the definition of **schedular income**, repeal paragraph (b).
- (51) Repeal the definition of **specified mineral**.
- (52) **Subsections (4), (13), and (39)** apply for the 2008–09 and later income years.
- (53) **Subsection (8)** applies for income years beginning on or after 1 July 2009. 35
- (54) **Subsections (44), (45), and (46)** apply—

- (a) on and after 1 July 2010, unless **paragraph (b)** applies:
- (b) for an income year that includes 1 July 2010 and later income years, if the life insurer chose to apply the life insurance rules in the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 in a return of income for the tax year corresponding to the first relevant income year. 5
- (55) **Subsections (5), (7), and (49)** apply for the 2014–15 and later income years.
- 104 Schedule 1 amended (Basic tax rates: income tax, ESCT, RSCT, RWT, and attributed fringe benefits) 10**
- (1) In schedule 1, part A, clause 1, replace the words before the formula with “To the extent to which a person does not have a basic rate under clauses 2 to 10, the basic rate of income tax for the person on each dollar of the person’s taxable income is calculated using the formula—”. 15
- (2) **Subsection (1)** applies for the 2011–12 and later income years.
- 105 Schedule 32 amended (Recipients of charitable or other public benefit gifts) 20**
- (1) In schedule 32, insert, in appropriate alphabetical order, “Kailakuri Health Care Project – New Zealand Link”, “Marama Global – Education”, and “Marama Global – Health”.
- (2) **Subsection (1)** applies for the 2014–15 and later income years. 25
- 106 New schedule 33 inserted (Default fractions of foreign superannuation withdrawals) 30**
- After schedule 32, insert the schedule 33 in schedule 1 of this Act.
- 107 Deletion of redundant headings and readers’ aids**
- The items in column 2 of schedule 2 are deleted or repealed from the locations given by the corresponding row in column 1 of schedule 2.

Part 3
Amendments to other Acts
Tax Administration Act 1994

- 108 Tax Administration Act 1994**
Sections 109 to 114 amend the Tax Administration Act 1994. 5
- 109 Section 17 amended (Information to be furnished on request of Commissioner)**
- (1) Section 17(2) is repealed.
- (2) **Subsection (1)** applies for the income year after the income year in which the Financial Reporting Act 1993 is repealed, and later income years. 10
- 110 New sections 21B and 21C inserted**
- (1) Before section 22 and after the heading *Taxpayer's obligation to keep records*, insert: 15
- “21C Preparing financial statements: Orders in Council**
- “(1) The Governor-General may from time to time, by Order in Council made on the recommendation of the Minister of Revenue, prescribe, for the purposes of **section 21B**,—
- “(a) minimum requirements for preparing financial statements: 20
- “(b) classes of taxpayers to whom the minimum requirements apply:
- “(c) classes of companies that are exempt from the minimum requirements. 25
- “(2) Before recommending the making or amending of an Order in Council under this section, the Minister of Revenue must consult with professional accounting bodies that the Minister decides it is reasonable to consult for the purposes of this section.” 30
- (2) Before **section 21C**, as inserted by **subsection (1)**, and after the heading **Taxpayer's obligation to keep records**, insert:
- “21B Preparing financial statements**
- “(1) A company must prepare financial statements in accordance with the applicable minimum requirements prescribed in an 35

- Order in Council made under **section 21C**, unless the company is of a class specified as exempt from the minimum requirements in an Order in Council made under **section 21C**.
- “(2) A taxpayer of a class specified in an Order in Council under **section 21C** must prepare financial statements in accordance with the applicable minimum requirements prescribed in an Order in Council made under **section 21C**. 5
- “(3) If an enactment other than this one provides applicable minimum requirements for preparing financial statements for a company or taxpayer, the company or taxpayer must prepare financial statements using those minimum requirements and **subsection (1) and (2)** do not apply. 10
- “(4) Section 22 applies to keeping and retaining the financial statements.”
- (3) **Subsection (2)** applies for the income year after the income year in which the Financial Reporting Act 1993 is repealed, and later income years. 15
- 111 Section 22 amended (Keeping of business and other records)**
- (1) Before section 22(1)(a), insert: 20
 “(aa) the financial statements required to be prepared by **section 21B**; and”.
- (2) **Subsection (1)** applies for the income year after the income year in which the Financial Reporting Act 1993 is repealed, and later income years. 25
- 112 Section 24O amended (Certain information required from agricultural, horticultural, or viticultural employers)**
- (1) In section 24O(4), replace paragraphs (d) to (f) with:
 “(d) the gross amount of the payment.”
- (2) **Subsection (1)** applies for the 2008–09 and later income years. 30
- 113 Section 91C amended (Taxation laws in respect of which binding rulings may be made)**
- (1) In section 91C(1)(f), words before paragraph (i), replace “paragraphs (a) to (eb)” with “paragraphs (a) to (ec)”. 35

- (2) In section 91C(1)(f)(i), replace “paragraph (e) or (eb)” with “paragraphs (e) to (ec)”.
- (3) **Subsections (1) and (2)** apply for the 2008–09 and later income years.

114 Section 108 amended (Time bar for amendment of income tax assessment) 5

- (1) In section 108(1), replace “increase the amount assessed” with “increase the amount assessed or decrease the amount of a net loss”.
- (2) **Subsection (1)** applies for the 2002–03 and later income years. 10

KiwiSaver Act 2006

115 Schedule 1 amended (KiwiSaver scheme rules)

In the KiwiSaver Act 2006, schedule 1, after clause 14, insert:

- “14A Withdrawal to meet tax liability on foreign superannuation withdrawal 15**
- “(1) A member may, on application to the trustees (in the case of a restricted KiwiSaver scheme) or the manager (in the case of any other KiwiSaver scheme), withdraw an amount for the payment of the member’s liability for tax, other than interest or penalties, arising under the Income Tax Act 2007 from the member’s withdrawal of an interest in a foreign superannuation scheme and conversion of the interest into an interest in a KiwiSaver scheme. 20
 - “(2) The amount withdrawn may not exceed the lesser of— 25
 - “(a) the member’s liability for tax;
 - “(b) the value of the member’s accumulation less the amount of the Crown contribution.
 - “(3) An application under **subclause (1)** must— 30
 - “(a) be made by the member— 30
 - “(i) before 1 April 2016, if the member’s foreign superannuation withdrawal is derived before 1 April 2014; or
 - “(ii) within 24 months of the member’s foreign superannuation withdrawal, if the withdrawal is derived on or after 1 April 2014; and 35

- “(b) be in the form required by the trustees or manager (as the case may be); and
- “(c) must include a completed statutory declaration giving the relevant details of the foreign superannuation withdrawal, the reinvestment, and the resulting liability of the member for tax under the Income Tax Act 2007; and 5
- “(d) must include any documents and other information that may be required by the trustees or manager (as the case may be) in support of the statutory declaration.”

Income Tax Act 2004

10

116 New section CF 3 inserted (Optional treatment of withdrawals from foreign superannuation schemes not included in return or assessed before 1 April 2014)

After section CF 2 of the Income Tax Act 2004, insert:

“CF 3 Optional treatment of withdrawals from foreign superannuation schemes not included in return or assessed before 1 April 2014

15

“When this section applies

- “(1) This section applies when a person—
- “(a) derives an amount, other than a pension or annuity, as a withdrawal from a foreign superannuation scheme in the period beginning with the beginning of the 2005–06 income year and ending with the end of the 2007–08 income year; and 20
- “(b) does not include all or part of the withdrawal (the **omitted withdrawal**) in a return of income for the income year in which the amount was derived; and 25
- “(c) is not assessed before 1 April 2014 for income included in the omitted withdrawal; and
- “(d) chooses to include in a return of income for an income year (the **return year**) ending after 31 March 2014 an amount of assessable income (the **withdrawal income**) as relating to the omitted withdrawal. 30

“Law applying at time of withdrawal overridden

- “(2) In the circumstances described in **subsection (1)**, the provisions of this Act applying to the taxation of the omitted withdrawal when the person derived the omitted withdrawal are 35

overridden by **section CZ 21B** (Optional treatment of withdrawals from foreign superannuation schemes not included in return or assessed before 1 April 2014) of the Income Tax Act 2007.

“Defined in this Act: amount, assessable income, income, income year, return of income, superannuation fund” 5

Income Tax Act 1994

- 117 New section CC 4 inserted (Optional treatment of withdrawals from foreign superannuation schemes not included in return or assessed before 1 April 2014)** 10
- After section CC 3 of the Income Tax Act 1994, insert:
- “CC 4 Optional treatment of withdrawals from foreign superannuation schemes not included in return or assessed before 1 April 2014**
- “(1) This section applies when a person— 15
- “(a) derives an amount, other than a pension or annuity, as a withdrawal from a foreign superannuation scheme in the period beginning with the 1 January 2000 and ending with the end of the 2004–05 income year; and
- “(b) does not include all or part of the withdrawal (the **omitted withdrawal**) in a return of income for the income year in which the amount was derived; and 20
- “(c) is not assessed before 1 April 2014 for income included in the omitted withdrawal; and
- “(d) chooses to include in a return of income for an income year (the **return year**) ending after 31 March 2014 an amount of assessable income (the **withdrawal income**) as relating to the omitted withdrawal. 25
- “(2) In the circumstances described in **subsection (1)**, the provisions of this Act applying to the taxation of the omitted withdrawal when the person derived the omitted withdrawal are overridden by **section CZ 21B** of the Income Tax Act 2007.” 30

Health Entitlement Cards Regulations 1993

118 Regulation 8 amended (Eligibility for community services cards)

In regulation 8(4)(a) of the Health Entitlement Cards Regulations 1993, delete “fortnightly interim”.

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Schedule 1 **s 106**
New schedule 33 inserted
Schedule 33 **s CF 3**
Default fractions of foreign superannuation withdrawals 5

<i>Column 1</i> schedule year	<i>Column 2</i> schedule year fraction (%)
1	4.76
2	9.45
3	14.06
4	18.60
5	23.07
6	27.47
7	31.80
8	36.06
9	40.26
10	44.39
11	48.45
12	52.45
13	56.39
14	60.27
15	64.08
16	67.84
17	71.53

**Taxation (Annual Rates, Foreign
Superannuation, and Remedial Matters) Bill**

Schedule 1

18	75.17
19	78.75
20	82.28
21	85.74
22	89.16
23	92.58
24	95.83
25	99.08
26 or more	100.00

Schedule 2 **s 107**
Removal of redundant headings and readers' aids

Location in Income Tax Act 2007	Delete / Repeal
After subpart LP	the subpart heading “Subpart LQ—Tax credits of conduit tax relief companies”.
After section OP 77	the cross-heading “ <i>CTR debits of consolidated groups</i> ”.
After section RC 35	the heading “ <i>Disaster relief</i> ”.
Section RZ 5D, list of defined terms	the words “provisional tax liability”.