

# TAXATION (ANNUAL RATES AND REMEDIAL MATTERS) BILL

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## EXPLANATORY NOTE

THIS portion of the explanatory notes provides a detailed analysis of the proposed amendments contained in the bill.

Some of the remedial provisions in the bill have retrospective application, to ensure that the intended policy of the provisions, as amended, applies to all taxpayers intended to be subject to the policy.

Clauses with retrospective effect are identified in the explanatory notes.

Unless the contrary is indicated, the amendments come into force on the date on which the bill receives the Royal assent.

## PART 1

### AMENDMENTS TO INCOME TAX ACT 1994

#### **Treatment of shares held on revenue account**

Section FC 3 is designed to ensure that the exempt dividend provisions cannot be used to avoid income tax that is payable when shares held on revenue account are sold. However, it fails to cover situations where a taxpayer does not deal in shares or has not acquired the shares for the purpose of selling them, but nevertheless holds the shares on revenue account. Further, it does not apply to dividends that are paid to an associated person of the taxpayer.

It is therefore proposed that section FC 3 be amended to apply to all shares held on revenue account and to dividends that are paid to an associated person of the taxpayer.

The amendment applies after the date of the bill's introduction.

#### **New Zealand Raspberry Marketing Council**

The New Zealand Raspberry Marketing Council, the Raspberry Marketing Export Authority and the four district marketing committees are each to be dissolved. Regulations will provide for the dissolution process. The proposed amendments provide that:

- (i) there will be no income tax consequences to the New Zealand Raspberry Marketing Council and its Committees, and to the shareholders of the Council and Committees as a result of the making and coming into force of the regulations providing for the dissolution process; and

- (ii) there will be no income tax consequences to the Nelson Raspberry Marketing Committee and its shareholders or to Rubus Investments Nelson Limited as a result of the vesting of Cold Storage Nelson Limited shares by the Nelson Raspberry Marketing Committee in a new company, Rubus Investments Nelson Limited. The subsequent distribution of Rubus Investments Nelson Limited shares to Nelson Raspberry Marketing Committee shareholders will be treated for tax purposes as a distribution of those shares by Nelson Raspberry Marketing Committee to its shareholders on winding up; and
- (iii) any distribution to shareholders of the Raspberry Marketing Council or the four committees on their winding up will, for tax purposes, be a distribution by a company to its shareholders on winding up.

These amendments are being made to ensure that there is certainty as to the tax consequences arising from the dissolution process, and will apply from the date on which the regulations providing for the dissolution process are made.

### **Conduit tax rules**

The conduit tax rules were enacted in March 1998. Before the reform, New Zealand's controlled foreign company and foreign investment fund rules had the unintended effect of taxing income, derived from outside New Zealand on behalf of non-residents, at 33% on an accrual basis. Conduit tax reform effectively switched off the New Zealand tax on this income. In doing this, a significant disincentive to conduit investment was removed. New Zealand does, however, continue to impose non-resident withholding tax of 15% on any distributions of conduit income to non-residents.

A number of amendments are being made to the conduit rules. The most significant of these involve the introduction of new rules to allow consolidated groups to maintain conduit tax relief accounts. A number of remedial amendments are also being made to address other deficiencies that have been identified in the rules.

#### *Integration of consolidated groups*

The consolidated group rules, enacted in 1992, allow a wholly-owned group of companies to be treated as a single company for tax purposes. The rules simplify the tax calculations for corporate groups and allow them to improve their efficiency by rationalising large and complex structures.

Although the absence of specific rules for consolidated groups was identified as an issue at the Select Committee stage when the conduit rules were enacted, it was not expected that there would be sufficient affected companies to justify introducing the extensive additional rules necessary if consolidated groups were to be fully integrated into the reform. However, it has now become clear that sufficient demand does exist, hence the new rules integrating consolidated groups into the conduit rules.

#### *Remedial matters*

A number of remedial issues relating to the conduit rules have been identified since the rules were enacted. Amendments are being made to address these issues.

#### *Application date*

The conduit tax amendments all have retrospective effect to the commencement of the rules: the 1998-99 income year, 1998-99 imputation year, or dividends paid on or after 1 April 1998. Because the rules have only been in place for one year, it was considered more straightforward to give the amendments retrospective effect than to address transitional effects that might

otherwise arise. Retrospective application should also favour taxpayers, as the amendments correct anomalies that are generally disadvantageous to them. For consolidated groups in particular, retrospective application will ensure there is no confusion about how the conduit rules might otherwise apply to the group for the 1998–99 year.

*Consolidated group dividend withholding payment accounts*

A deficiency has been identified in the rules for maintaining a dividend withholding payment account for a consolidated group. At present, the rules lack the operative provisions necessary to ensure that the anti-avoidance rules for inappropriate credit allocations apply to consolidated groups. A new section MG 16A addresses this deficiency, and applies from the 1999–2000 imputation year.

**Amalgamations and qualifying company election tax**

Currently, a non-qualifying company can elect to become a qualifying company, and then make tax-free distributions to its shareholders, but it must first pay qualifying company election tax (“QCET”). The tax acts as a proxy for the income tax that would be payable on the company’s retained earnings if the company were wound up. However, a non-qualifying company is not required to pay QCET on its retained earnings when the company goes out of existence upon amalgamation with a qualifying company. The result is that the qualifying company can distribute the retained earnings of the non-qualifying company without any tax being paid at all. This result was never intended and creates opportunities for avoidance.

An amendment is therefore proposed to require a qualifying company to pay QCET on a non-qualifying company’s retained earnings if the non-qualifying company is subsumed by the qualifying company on amalgamation.

The amendment will apply after the date of the bill’s introduction.

**Tax simplification**

The bill contains two minor remedial amendments: one corrects a tax code reference, and the other consequentially amends the family assistance legislation.

The first amendment will apply from 1 April 1999, and the consequential amendment to the family assistance legislation will apply to the 2000–2001 and subsequent income years.

**Resident and non-resident joint bank accounts**

When interest is paid with respect to a bank account that is jointly owned by residents and non-residents, there is uncertainty over which withholding rates apply. An amendment is proposed to remove this uncertainty by excluding such interest from the non-resident withholding tax rules, thereby making the interest payment subject to a deduction of resident withholding tax.

**Transfer pricing**

The transfer pricing rules were not intended to apply to interest-free loans made to taxable New Zealand residents, because these loans provide a cheap and economically beneficial source of capital to New Zealand. An amendment ensures that the interface with the thin capitalisation rules does not have the unintended effect of applying the transfer pricing rules to these loans.

The amendment applies from the 1996–97 income year.

**Available subscribed capital**

An amendment to the definition of available subscribed capital is proposed to ensure that companies cannot convert reserves, that would ordinarily be taxable

when distributed to shareholders, into available subscribed capital, without a tax cost.

The proposed amendment will exclude from the definition of *available subscribed capital* any consideration received by a company for the issue of shares, if the consideration is in the form of giving up existing ownership rights or interests in the company where there is currently no available subscribed capital in respect of those rights or interests.

The amendment will apply from the date of the bill's introduction.

### **Trading stock amendments**

Three amendments are proposed to rectify or clarify aspects of the recently enacted trading stock reforms. An amendment ensures that excepted financial arrangements transferred between companies in a wholly-owned group are only required to be transferred at cost when both companies are resident in New Zealand. This amendment will apply from the date of the bill's introduction.

In addition, two definitions are clarified. The definition of *financial statements* will be amended so that it applies to the financial statements of all taxpayers, and not just companies. This amendment will apply from the 1999–2000 income year. The definition of *small taxpayer* will be amended so that taxpayers will only be associated when companies have at least 50% common ownership or a taxpayer has at least 50% ownership of a company. This amendment will apply retrospectively from the 1998–99 income year, when the trading stock reforms took effect, to prevent taxpayers from being excluded from the simplified rules for small taxpayers.

### **Special corporate entities and the associated persons definitions**

An amendment is proposed to ensure that certain special corporate entities are not subject to the associated persons rules in sections OD 7 and OD 8. Although sections OD 3 and OD 4 ensure that some of the associated persons tests do not apply, there is nothing to preclude other remaining tests from affecting special corporate entities.

This result was not intended. The proposed amendment therefore confirms the intended policy and the Government's policy of competitive neutrality between Crown entities and the private sector.

The amendment will apply retrospectively to the 1994–95 income year, the income year from which the Income Tax Act 1994 applied unless a taxpayer has filed a return of income on or before the date of the bill's introduction that applies either section OD 7 or section OD 8.

## **PART 2**

### **AMENDMENTS TO TAX ADMINISTRATION ACT 1994**

#### **Shareholder dividend statements**

When the conduit tax rules were enacted, it was not intended that the amount of conduit tax relief credit be included on the shareholder dividend statement. Amendments to sections 29 and 30A correct a cross-reference omission, and remove the requirement to include the amount of conduit tax relief credit on the shareholder dividend statement.

The amendments apply retrospectively to dividends paid on or after 1 April 1998.

#### **Simplification amendments**

Amendments are proposed to ensure the effectiveness of the tax simplification legislation by clarifying ambiguities and correcting drafting omissions.

The amendments confirm that income statements are not to be issued to non-natural persons, ensure that new employers required to file electronically have six

months to comply with the electronic filing requirements, and clarify the circumstances in which a taxpayer is liable for a non-electronic filing penalty.

The first two amendments will apply on and after 1 April 1999. The third amendment applies on and after the date of Royal assent.

#### **Interest on foreign investor tax credit**

Taxpayers are allowed to carry back and apply foreign investor tax credits against an earlier income year, to ensure that they are not placed at a cash flow disadvantage when funding a supplementary dividend. This rule is, however, merely a mechanism to allow a refund to be issued, and does not provide the Commissioner with the use of any funds in the earlier year. It is inappropriate, therefore, for interest to be credited on any foreign investor tax credit applied in this manner, and an amendment is proposed to ensure that such a credit will not arise.

The amendment will apply to credits applied to the 1997–98 and subsequent income years.

### PART 3

#### AMENDMENTS TO GOODS AND SERVICES TAX ACT 1985

##### **GST treatment of exported services**

An amendment to section 11 (2)(e) is proposed to exclude from zero-rating the supply of services that are physically performed in New Zealand but are contracted for with a non-resident who is outside New Zealand. The amendment aims to reassert the policy intent that domestic consumption of services is subject to GST, even though a non-resident may have purchased the services.

Other amendments are proposed to ensure that:

- a non-resident's presence in New Zealand that is unrelated to a supply of services, or that is minor, means that the non-resident is "outside New Zealand" for the purpose of section 11 (2)(e) and 11 (2)(fa); and
- for the purpose of section 11 (2)(e), if the right to receive the services is granted in exchange for a token, stamp or voucher, section 10 (16) will not apply, and section 10 (17) will apply, so that the supply will be subject to GST according to the normal time of supply rules.

The proposed amendments will apply from the date of the bill's introduction.

### PART 4

#### AMENDMENTS TO ESTATE AND GIFT DUTIES ACT 1968

##### **New Zealand Raspberry Marketing Council**

Mirroring the result for income tax, amendments are proposed to ensure that no gift duty consequences arise from certain transactions as part of the dissolution of the New Zealand Raspberry Marketing Council, the Raspberry Marketing Export Authority and the four district marketing committees.

### PART 5

#### AMENDMENTS TO INCOME TAX ACT 1976

##### **Special corporate entities and the associated persons definitions**

The proposed amendments ensure that certain special corporate entities are not subject to the associated persons rules. The amendments will apply retrospectively to 1 April 1992, the date from which the *special corporate entity* definition applied, unless a taxpayer has already filed a return of income on or before the date of the bill's introduction and applied the associated persons rules.

## PART 6

## ANNUAL RATES OF INCOME TAX FOR 1999–2000

**Confirmation of annual income tax rates**

The proposed amendment confirms the annual tax rates for the 1999–2000 income year.

## EXPLANATORY NOTE

## CLAUSE BY CLAUSE ANALYSIS

## PART 1

## AMENDMENTS TO INCOME TAX ACT 1994

*Clause 3* inserts a new *section CF 2 (13A)* to provide that the exclusion in subsection (13) does not apply to dividends to which *section FC 3* applies.

*Clause 4* amends *section EE 14* to restrict the section's application to transfers between group companies that are resident in New Zealand.

*Clause 5* amends *section FC 3* to ensure that the section applies to all shares held on revenue account and to dividends paid to associated persons.

*Clause 6* amends *section FH 5* to correct a cross-reference.

*Clause 7* amends *section FH 7* so that a possible branch equivalent tax account offset from a group member is not included in a taxpayer's excess interest calculation unless it is actually applied by the taxpayer.

*Clause 8* replaces *section FH 8 (5)* to remove *paragraph (a)*.

*Clause 9* amends *section GD 13 (5)(a)* to ensure the transfer pricing rules do not apply to interest-free loans made to taxable New Zealand residents.

*Clause 10* introduces a new *Part GE* to provide certainty as to the income tax consequences that arise out of the dissolution process for the existing marketing authorities in the raspberry industry.

*Clause 11* amends *section HG 11* to require a qualifying company to pay qualifying company election tax when it amalgamates with a non-qualifying company if the non-qualifying company ceases to exist.

*Clause 12* amends *section KD 5* to require that claimants of the family assistance tax credit provide IRD numbers as verification for entitlement, rather than birth certificates or other evidence acceptable to the Commissioner.

*Clause 13* amends *section KH 1* to ensure that a company will not be entitled to conduit tax relief if it is no longer a conduit tax relief company, and to ensure that a possible branch equivalent tax account offset from a group member is not included in a taxpayer's rebate calculation unless it is actually applied by the taxpayer.

*Clause 14* amends *section KH 2* to allow a listed company to measure its non-resident shareholders on any date on which it determines its shareholders for commercial reasons, and to require wholly-owned subsidiaries of a listed company to use the measurement date determined for their parent.

*Clause 15* consequentially amends *section ME 12* to reflect the new rules for maintaining a group conduit tax relief account.

*Clause 16* amends *section MG 8* so that an allocation deficit debit does not arise for a policyholder credit account company that is also a conduit tax relief account company.

*Clause 17* consequentially amends *section MG 14* to reflect the new rules for maintaining a group conduit tax relief account.

*Clause 18* inserts a new *section MG 16A*, which contains operative provisions to apply the anti-avoidance rules for inappropriate credit allocations to consolidated groups.

*Clause 19* amends *section MI 2* to confirm that an election to maintain a conduit tax relief account is effective for subsequent imputation years, and to clarify when the revocation of an election to maintain the account takes effect.

*Clause 20* amends *section MI 5* to reflect the new rules for maintaining a group conduit tax relief account, and to correct the terminology used in *section MI 5 (2)(b)*.

*Clause 21* inserts new *sections MI 14* to *MI 22*, which set out the rules for a consolidated group to maintain a group conduit tax relief account.

*Section MI 14* establishes when a consolidated group may maintain a group conduit tax relief account.

*Section MI 15* sets out how the opening balance in a group conduit tax relief account is determined each year.

*Section MI 16* provides that a member of a consolidated group that maintains a group conduit tax relief account is a conduit tax relief company.

*Section MI 17* specifies the credits that arise to the group conduit tax relief account, and when they arise.

*Section MI 18* specifies the debits that arise to the group conduit tax relief account, and when they arise.

*Section MI 19* sets out how the group conduit tax relief account interacts with the conduit tax relief accounts of individual members of the consolidated group.

*Section MI 20* effects the end of year wash-up mechanism between the group conduit tax relief account and the group dividend withholding payment account.

*Section MI 21* provides that further amounts of dividend withholding payment are payable when certain debits arise to the group conduit tax relief account.

*Section MI 22* contains operative provisions to apply the anti-avoidance rules for inappropriate credit allocations to consolidated groups.

*Clause 22* consequentially amends the proviso to *section NC 8 (1)* by correcting an incorrect tax code reference.

*Clause 23* amends *section NC 12A (3)* to provide that when the Commissioner requires an employer to change an employee's tax code, the amended tax code will apply until the employee's circumstances change requiring a different tax code to be applied.

*Clause 24* inserts a new *section NG 1 (2)(e)* to exclude from the definition of non-resident withholding income interest paid to bank accounts that are jointly held by residents and non-residents.

*Clause 25* amends *section NH 7*. *Subclause (1)* amends *section NH 7 (1)* to ensure that a company will not be entitled to conduit tax relief if it is no longer a conduit tax relief company.

*Subclause (2)* amends *section NH 7 (2)(b)* to ensure that a newly incorporated company is not denied conduit relief on foreign-sourced dividends derived in its first two years of operation.

*Subclause (3)* amends *section NH 7 (3)* to allow a listed company to measure its non-resident shareholders on any date on which it determines its shareholders for commercial reasons, and inserts new *section NH 7 (3A)* to require wholly-owned subsidiaries of a listed company to use the measurement date determined for their parent.

*Clause 26* amends *section OB 1*. The definition of *available subscribed capital* is amended to exclude consideration received by companies if the consideration is

the giving up of membership rights or interests in the company by persons receiving the shares. The definition *conduit tax relief company* is amended to reflect the new rules for maintaining group conduit tax relief accounts, and to specify when a company ceases to be a conduit tax relief company. The definition of *financial statements* is amended to include financial statements prepared by taxpayers other than companies. The definition of *small taxpayer* is amended to provide a more targeted reference to associated persons for small taxpayers who value trading stock.

*Clause 27* amends *section OD 7* to exclude certain special corporate entities from the section's application. The amendment applies from the 1994–95 income year unless a taxpayer has previously filed a return of income applying *section OD 7*.

*Clause 28* amends *section OD 8* to exclude certain special corporate entities from the section's application. The amendment applies from the 1994–95 income year unless a taxpayer has previously filed a return of income applying *section OD 8*.

## PART 2

### AMENDMENTS TO TAX ADMINISTRATION ACT 1994

*Clause 30* amends *section 29* to correct an error in terminology, and to correct an omitted cross-reference to *section 30A*.

*Clause 31* repeals *section 30A (a)*.

*Clause 32* amends *section 33A (5)* to refer to natural persons.

*Clause 33* inserts a new *section 36CA* to allow employers who begin new businesses six months to comply with electronic filing requirements.

*Clause 34* inserts a new *section 120PA* to prevent use of money interest being credited on foreign investor tax credits applied to earlier income years.

*Clause 35* amends *section 139AA (2)* to clarify that an employer is liable to a non-electronic filing penalty if the employer files the employer monthly schedule in a non-prescribed format.

## PART 3

### AMENDMENTS TO GOODS AND SERVICES TAX ACT 1985

*Clause 37* inserts a new *section 10 (16A)* and *10 (17A)* to ensure that the supply of services to which the new *section 11 (2A)* applies is subject to GST under the normal time of supply rules.

*Clause 38* amends *section 11* to exclude from the zero-rating services consumed in New Zealand but contracted for offshore with a non-resident.

## PART 4

### AMENDMENTS TO ESTATE AND GIFT DUTIES ACT 1968

*Clause 40* inserts a new *section 75D* to ensure that gift duty consequences do not arise on the transactions entered into as part of the dissolution process for the raspberry industry.

## PART 5

### AMENDMENTS TO INCOME TAX ACT 1976

*Clauses 42, 43, 44* and *45* exclude certain special corporate entities from the application of *sections 8, 67, 214E* and *245B* respectively. The amendment applies on and after 1 April 1992 unless a taxpayer has previously filed a return of income on the basis that one of those sections applied to them.

**TAXATION (ANNUAL RATES AND REMEDIAL  
MATTERS)**

ANALYSIS

Title		
1. Short Title	19. Company may elect to be a conduit tax relief company and maintain conduit tax relief account	
<b>PART 1</b>		
<b>AMENDMENTS TO INCOME TAX ACT 1994</b>		
2. Income Tax Act 1994	20. Debits arising to conduit tax relief account	
3. Meaning of term "dividends"	21. New sections added	
4. Transfer of excepted financial arrangement within wholly-owned group	<i>Consolidated groups</i>	
5. Rule for dividends that represent recovery of share's purchase price	MI 14. Consolidated group to maintain separate conduit tax relief account	
6. Rule for calculating group excess interest allocation amount	MI 15. Consolidated group conduit tax relief account	
7. Rule for calculating individual excess interest allocation amount	MI 16. Consolidated group member is conduit tax relief company	
8. Rules for applying surplus group excess interest allocation amount to increase income tax and dividend withholding payment	MI 17. Credits arising to group conduit tax relief account	
9. Cross-border arrangement between associated persons	MI 18. Debits arising to group conduit tax relief account	
10. New Subpart inserted	MI 19. Debiting and crediting between group and individual conduit tax relief accounts	
<b>SUBPART E—NON-MARKET TRANSACTIONS—SPECIFIC</b>		MI 20. End of year clearing transfer to or from dividend withholding payment account
<b>GE 1. New Zealand Raspberry Marketing Council</b>		MI 21. Further dividend withholding payment payable in respect of conduit tax relief account debits
11. Taxation on election to become qualifying company	MI 22. Application of specific conduit tax relief account provisions to consolidated groups	
12. Credit of tax by instalments	22. Applications of tax codes specified in tax code declarations or tax code certificates	
13. Conduit tax relief	23. Employee using incorrect tax code	
14. Calculation of percentage of shareholders not resident	24. Application of NRWT rules	
15. Debits arising to imputation credit account of group	25. Reduction in liability under conduit tax relief	
16. Rule for calculating company's excess interest allocation percentage	26. Definitions	
17. Credits arising to group dividend withholding payment account	27. Defining when 2 persons are associated persons	
18. New section inserted	28. Further definitions of associated persons	
MG 16A. Application of specific dividend withholding provisions to consolidated groups		

*Taxation (Annual Rates and Remedial Matters)*

<p style="text-align: center;">PART 2</p> <p>AMENDMENTS TO TAX ADMINISTRATION ACT 1994</p> <p>29. Tax Administration Act 1994</p> <p>30. Shareholder dividend statement to be provided by company</p> <p>31. Statement to shareholder when conduit tax relief credit attached to dividend</p> <p>32. Annual income tax returns not required</p> <p>33. Electronic filing exemption for new businesses</p> <p>34. New section inserted 120PA. Applying foreign investor tax credit to earlier income year</p> <p>35. Non-electronic filing penalty</p> <p style="text-align: center;">PART 3</p> <p>AMENDMENTS TO GOODS AND SERVICES TAX ACT 1985</p> <p>36. Goods and Services Tax Act 1985</p> <p>37. Value of supply of goods and services</p> <p>38. Zero-rating</p>	<p style="text-align: center;">PART 4</p> <p>AMENDMENTS TO ESTATE AND GIFT DUTIES ACT 1968</p> <p>39. Estate and Gift Duties Act 1968</p> <p>40. New section inserted 75D. Exemption for dispositions by raspberry industry entities</p> <p style="text-align: center;">PART 5</p> <p>AMENDMENTS TO INCOME TAX ACT 1976</p> <p>41. Income Tax Act 1976</p> <p>42. Defining when 2 persons are associated persons</p> <p>43. Profits or gains from land transactions</p> <p>44. Associated persons</p> <p>45. Definition of term "associated persons"</p> <p style="text-align: center;">PART 6</p> <p>ANNUAL RATES OF INCOME TAX FOR 1999-2000</p> <p>46. Rates of income tax for 1999-2000 income year</p>
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A BILL INTITULED

**An Act to confirm the annual rates of income tax for the 1999-2000 income year and make remedial amendments under the Inland Revenue Acts**

BE IT ENACTED by the Parliament of New Zealand as follows: 5

**1. Short Title**—This Act may be cited as the **Taxation (Annual Rates and Remedial Matters) Act 1999**.

PART 1

AMENDMENTS TO INCOME TAX ACT 1994

**2. Income Tax Act 1994**—This Part amends the Income Tax Act 1994\*. 10

\*1994, No. 164

Amendments: 1994, Nos. 165, 166; 1995, Nos. 18, 21, 71, 73, 79, 82; 1996, Nos. 17, 24, 27, 50, 58, 67, 68, 82, 85, 142, 159; 1997, Nos. 9, 25, 59, 74; 1998, Nos. 7, 101, 107

**3. Meaning of term "dividends"**—(1) After section CF 2 (13), the following is inserted:

“(13A) Despite subsection (13), subsection (1)(k) applies to dividends to which **section FC 3** applies.” 15

(2) **Subsection (1)** applies after **20 May 1999**.

**4. Transfer of excepted financial arrangement within wholly-owned group**—(1) After section EE 14 (2), the following is inserted:

“(2A) Subsection (2) only applies if the transferor and the transferee are resident in New Zealand on the date that the excepted financial arrangement is sold, disposed of or distributed.”

5 (2) **Subsection (1)** applies to the sale, disposal or distribution of excepted financial arrangements on and after **20 May 1999**.

**5. Rule for dividends that represent recovery of share’s purchase price**—(1) In section FC 3 (1), the portion before paragraph (a) is replaced by:

10 “(1) If a taxpayer holds shares that are revenue account property, a dividend derived by the taxpayer or an associated person from the shares after their acquisition which the Commissioner considers—”.

(2) **Subsection (1)** applies after **20 May 1999**.

15 **6. Rule for calculating group excess interest allocation amount**—(1) In section FH 5, in item “GIFD”, “sections FH 4 and FH 5” is replaced by “sections FH 3 and FH 4”.

(2) **Subsection (1)** applies to the 1998–99 and subsequent income years.

20 **7. Rule for calculating individual excess interest allocation amount**—(1) In section FH 7, item “BC” of the formula is replaced by:

“BC is the total of—

25 “(a) The amount able to be credited by the company against its income tax liability for the income year under section MF 5 (4); and

30 “(b) The amount credited by another company in the same group of companies against the company’s income tax liability for the income year under section MF 5 (4).

Both amounts are determined as if the amount of rebate calculated under section KH 1 were nil.”.

(2) **Subsection (1)** applies to the 1998–99 and subsequent income years.

35 **8. Rules for applying surplus group excess interest allocation amount to increase income tax and dividend withholding payment**—(1) Section FH 8 (5) is replaced by:

“(5) A conduit tax relief company will have a conduit tax relief account adjustment of an amount calculated as follows:

“ $FDAA \times TR$

“where—

“FDAA is the company’s foreign dividend adjustment amount for the income year:

“TR is the rate of income tax stated in Schedule 1, Part A, clause 5 for the income year.”

(2) **Subsection (1)** applies to the 1998–99 and subsequent income years.

**9. Cross-border arrangement between associated persons**—(1) Section GD 13 (5)(a) is replaced by:

“(a) The amount is an allowable deduction of the other party, (or, in the case of an interest-free loan, would be an allowable deduction but for the application of Part FG if an arm’s length amount of interest were substituted), and is interest, royalties or an insurance premium; or”.

(2) **Subsection (1)** applies to the 1996–97 and subsequent income years.

**10. New Subpart inserted**—(1) After section GD 13, the following is inserted:

“SUBPART E—NON-MARKET TRANSACTIONS—SPECIFIC

“GE 1. **New Zealand Raspberry Marketing Council**—

(1) This section applies upon the making of regulations to dissolve the New Zealand Raspberry Marketing Council, the Raspberry Marketing Export Authority, and the District Raspberry Marketing Committees, established under the Raspberry Marketing Regulations 1979.

“(2) In this section, ‘Council’ and ‘District Committee’ have the meaning set out in the Raspberry Marketing Authorities (Dissolution) Regulations 1999.

“(3) When the Raspberry Marketing Authorities (Dissolution) Regulations 1999 are made, the making and coming into force does not give rise to—

“(a) Gross income for the members of the Council or the District Committees under section BD 1; or

“(b) A dividend for the purpose of section CF 2.

“(4) When the Cold Storage Nelson Limited shares owned by the Nelson Raspberry Marketing Committee vest in Rubus Investments Nelson Limited, the vesting does not give rise to—

“(a) Gross income for Rubus Investments Nelson Limited under section BD 1; or

“(b) A dividend for the purpose of section CF 2; or

“(c) A capital gain amount under section CF 3 (7).

“(5) The issue of shares to the growers of the Nelson Raspberry Marketing Committee by Rubus Investments Nelson Limited in accordance with the formula in the Raspberry Marketing Authorities (Dissolution) Regulations 1999 is treated as having been made by the Nelson Raspberry Marketing Committee itself on winding up.

“(6) A distribution made by the Council to the District Committees on winding up is treated as a distribution made by a company to its shareholders on winding up.

“(7) A distribution made by any one of the Committees to a grower on winding up is treated as a distribution made by a company to its shareholders on winding up.”

(2) **Subsection (1)** applies on and after the date the Raspberry Marketing Authorities (Dissolution) Regulations 1999 are made.

**11. Taxation on election to become qualifying company**—(1) After section HG 11 (1), the following is inserted:

“(1A) If a company is not a qualifying company and ceases to exist when it amalgamates with a qualifying company, the amalgamated company is liable to pay a special tax by way of income tax known as qualifying company election tax.

“(1B) If **subsection (1A)** applies, subsection (2) applies to the amalgamated company as if—

“(a) The reference to ‘the “relevant time”’ were read as referring to the time at which the amalgamating company ceases to exist; and

“(b) All references to the time or income year in which the company became a qualifying company, however expressed, were read as referring to the time at which the amalgamating company ceases to exist.”

(2) After section HG 11 (3) the following is inserted:

“(3A) If a company that is not a qualifying company amalgamates with a qualifying company and ceases to exist on amalgamation during an income year (referred to as the ‘relevant year’), the amalgamated company is not entitled by virtue of any of sections IE 1, IE 3, IE 4, IF 1 and IF 3 to carry forward to the relevant year or a later income year any net losses of the amalgamating company that ceases to exist for income years before the relevant year.”

(3) **Subsections (1) and (2)** apply after 20 May 1999.

**12. Credit of tax by instalments**—(1) Section KD 5 (3) is replaced by:

“(3) If an application is not accompanied by the tax file number of each child for whom a credit of tax is claimed and if the Commissioner is otherwise satisfied of the person’s entitlement, the Commissioner must— 5

“(a) Issue the person with a certificate of entitlement; and

“(b) Pay to the person interim instalments of a credit of tax under section KD 2, or sections KD 2 and KD 3, for a period of 8 weeks. 10

“(3A) If the person or their spouse does not provide the tax file number of a child for whom a credit of tax is claimed within the 8-week period, the Commissioner must stop paying the credit of tax for the child until the tax file number is provided.” 15

(2) **Subsection (1)** applies to the 2000–2001 and subsequent income years.

**13. Conduit tax relief**—(1) Section KH 1 (1) is replaced by:

“(1) A company is allowed an income tax rebate as calculated under subsection (2), for an income year corresponding with an imputation year for which it is a conduit tax relief company, if it is still a conduit tax relief company at the time it files its return of income for the income year.” 20

(2) In section KH 1 (2), item “BC” of the formula is replaced by: 25

“BC is the total of—

“(a) The amount able to be credited by the company against its income tax liability for the income year under section MF 5 (4); and

“(b) The amount credited by another company in the same group of companies against the company’s income tax liability for the income year under section MF 5 (4). 30

Both amounts are determined as if the amount of rebate calculated under this section were nil.” 35

(3) **Subsections (1)** and (2) apply to the 1998–99 and subsequent income years.

**14. Calculation of percentage of shareholders not resident**—(1) Section KH 2 (2) is replaced by:

“(2) If a company to which subsection (1) applies is a listed company, the company may use: 40

“(a) The record date (the date on which entitlement to a dividend is determined) for a dividend instead of the date on which the dividend is paid; or

5 “(b) Any date in the income year on which the company, for whatever commercial reason, calculates the percentage of non-resident shareholders.

“(2A) If, in respect of a company, there is a conduit tax relief group member, subsection (1) applies as if the company referred to in that subsection were the company—

10 “(a) In which one or more non-residents have a direct voting interest; and

“(b) That has a 100% voting interest (calculated as if section OD 3 (3)(d) did not apply to deem the company’s interests to be held by others) in the company first mentioned in this subsection.”

15 (2) **Subsection (1)** applies to the 1998–99 and subsequent income years.

**15. Debits arising to imputation credit account of group—**(1) After section ME 12 (1)(m), the following is added:

20 “(n) The amount calculated under **subsection (3)** or **(4)** for an income year and transferred to the group’s dividend withholding payment account on account of net foreign attributed income.”

(2) After section ME 12 (2)(k), the following is added:

25 “(l) In the case of a debit referred to in **paragraph (n)**—

“(i) On the last day of the imputation year that corresponds to the income year, to the extent that the debit is not more than the amount of provisional tax payments made for the income year on or before that day; and

30 “(ii) To the extent that **subparagraph (i)** does not apply, on the date the return of income for the income year is filed.”

(3) After section ME 12 (2), the following is added:

35 “(3) If a consolidated group maintains both a dividend withholding payment account and a conduit tax relief account for the imputation year corresponding to the income year, the amount to be transferred under **subsection (1)(n)** is calculated by applying sections KH 1 and KH 2, with any necessary modifications and as if the amount were conduit tax relief for the year, but:

40

“(a) Substituting the percentage of resident shareholders for the quantity NRS in sections KH 1 (2) and KH 1 (3); and

“(b) Calculating the percentage of resident shareholders by deducting the quantity NRS from 100%.” 5

“(4) If a consolidated group maintains a dividend withholding payment account for the imputation year corresponding to the income year but does not maintain a group conduit tax relief account for the imputation year, the amount to be transferred under subsection (1)(n) is calculated by applying section KH 1 as if each member of the group were a conduit tax relief company and quantity NRS were 100%.” 10

“(5) If neither subsection (3) nor subsection (4) applies, no amount is to be transferred under subsection (1)(n).”

(4) Subsections (1) to (3) applies to the 1998–99 and subsequent imputation years. 15

**16. Rule for calculating company’s excess interest allocation percentage**—(1) In section MG 8 (5), “that is a policyholder credit account company” is replaced by “that is a policyholder credit account company but not a conduit tax relief company”. 20

(2) Subsection (1) applies to the 1998–99 and subsequent imputation years.

**17. Credits arising to group dividend withholding payment account**—(1) After section MG 14 (1)(e), the following is added: 25

“(f) The amount debited to the group’s imputation credit account under section ME 12 (1)(n) on account of net foreign attributed income.”

(2) After section MG 14 (2)(c), the following is added: 30

“(d) In the case of a debit referred to in paragraph (f), on the date the debit arises in the group’s imputation credit account.”

(3) Subsections (1) and (2) apply to the 1998–99 and subsequent imputation years. 35

**18. New section inserted**—(1) After section MG 16, the following is inserted:

“MG 16A. **Application of specific dividend withholding provisions to consolidated groups**—(1) Section MG 8 applies, with any necessary modifications, to a consolidated group as if it were a single company, but for the purpose of 40

section MG 8 (2) to (4), dividends paid by one member of the consolidated group to another member of the consolidated group are not taken into account.

5 “(2) Section MG 9 and sections 103, 104, 139B, 140C, 140D and 181 of the Tax Administration Act 1994 apply, with any necessary modifications, to a consolidated group and its dividend withholding payment account as if—

“(a) The consolidated group were a single company; and

10 “(b) Each reference to a provision of this Act were a reference to the equivalent provision that applies to consolidated groups; and

15 “(c) Each reference to the liability of a company for further dividend withholding payment, late payment penalty, or dividend withholding payment penalty tax were, subject to the application of section HB 1 (2) to (5), a reference to a joint and several liability of each company which is a member of the group at the time the liability becomes payable.

20 “(3) Sections GC 22 and MG 12 apply, with any necessary modifications, to the dividend withholding payment account of a consolidated group, as if—

“(a) The consolidated group were a single company; and

25 “(b) Each reference to a provision of this Act were a reference to the equivalent provision that applies to the accounts of a consolidated group.”

(2) Subsection (1) applies to the 1999–2000 and subsequent imputation years.

**19. Company may elect to be a conduit tax relief company and maintain conduit tax relief account—**

30 (1) Section MI 2 (4) is replaced by:

“(4) The company must maintain a conduit tax relief account from the beginning of the imputation year and for every subsequent imputation year until revocation under subsection (5) takes effect.”

35 (2) After section MI 2 (5), the following is inserted:

“(5A) A revocation of an election is effective from the beginning of the imputation year immediately succeeding the imputation year in which the revocation is made.”

(3) After section MI 2 (6), the following is inserted:

40 “(6A) A company is treated as having revoked its election if it elects to cease to be a dividend withholding payment account company under section MG 2 (4).”

(4) **Subsections (1) to (3)** apply to the 1998–99 and subsequent imputation years.

**20. Debits arising to conduit tax relief account—**

(1) After section MI 5 (1)(i), the following is inserted:

“(j) The amount of a credit transferred to the conduit tax relief account of a consolidated group under **section MI 19.**” 5

(2) Section MI 5 (2)(b) is replaced by:

“(b) In the case of a conduit tax relief adjustment, on the date on which the income tax return for the income year for which the adjustment is made is filed:” 10

(3) After section MI 5 (2)(h), the following is added:

“(i) In the case of a debit for an amount transferred to the conduit tax relief account of a consolidated group under **section MI 19**, on the date of transfer.” 15

(4) **Subsections (1) to (3)** apply to the 1998–99 and subsequent imputation years.

**21. New sections added—**(1) After section MI 13, the following is added:

*“Consolidated groups”* 20

**“MI 14. Consolidated group to maintain separate conduit tax relief account—**(1) A consolidated group must maintain a group conduit tax relief account for an imputation year if a company which is a member of the consolidated group is a conduit tax relief company at any time during the imputation year. 25

“(2) A group conduit tax relief account is a separate account from the conduit tax relief account of each company which is a member of the consolidated group.

**“MI 15. Consolidated group conduit tax relief account—**(1) The opening balance of a consolidated group’s conduit tax relief account is— 30

“(a) For the first imputation year the consolidated group maintains a group conduit tax relief account, nil; and 35

“(b) For subsequent income years, the closing balance of the account at the end of the preceding imputation year.

**“MI 16. Consolidated group member is conduit tax relief company—**A company is a conduit tax relief company, 40

whether or not it has so elected under section MI 2, if it is a member of a consolidated group that is required to maintain a group conduit tax relief account for an imputation year.

5 “MI 17. **Credits arising to group conduit tax relief account**—(1) In an imputation year, a consolidated group’s conduit tax relief account must be credited by the following amounts:

“(a) An income tax rebate allowed to the consolidated group under section KH 1:

10 “(b) A dividend withholding payment reduction allowed under section NH 7 for a dividend paid during the imputation year to a company that is a member of the consolidated group at the time of the reduction:

15 “(c) A conduit tax relief credit attached to a dividend derived by a company that is a member of the consolidated group at the time it derives the dividend:

“(d) The amount of a debit that previously arose under **section MI 18 (1)(d)**, to the extent it is subsequently established that the relevant conduit tax relief credit was not

20 “(e) The amount transferred from a company’s dividend withholding payment account under **section MI 19**:

“(f) A credit transferred from the group’s dividend withholding payment account under **section MI 20 (1)**.

25 “(2) The credits arise at the following times:

“(a) In the case of an income tax rebate credit—

“(i) On the last day of the imputation year that corresponds to the income year, to the extent of the amount calculated using the formula:

$$\frac{\text{PROV} \times \text{CTR}}{\text{XFER}}$$

30 “where—

“PROV is the amount debited on the last day of the imputation year under **section ME 12 (2)(l)(i)**; and

35 “XFER is the total amount to be transferred from the imputation credit account to the dividend withholding payment account under **section ME 12 (1)(n)**; and

“CTR is the amount of income tax rebate to be credited under **subsection (1)(a)**; and

- “(ii) To the extent that **subparagraph (i)** does not apply, on the date the company files its return of income for the income year:
- “(b) In the case of a dividend withholding payment reduction credit, on the date the company is required to pay the Commissioner the dividend withholding payment reduced by section NH 7: 5
- “(c) In the case of a credit for a conduit tax relief credit attached to a dividend, on the date the dividend is paid: 10
- “(d) In the case of a credit under **section MI 17 (1)(d)**, on the date the relevant debit arose under **section MI 18 (1)(d)**:
- “(e) In the case of a credit transferred under **section MI 19**, on the date the credit was transferred:
- “(f) In the case of a credit transferred under **section MI 20 (1)**, immediately before the end of the imputation year. 15
- “**MI 18. Debits arising to group conduit tax relief account**—(1) In an imputation year, a consolidated group’s conduit tax relief account must be debited by the following amounts: 20
- “(a) A conduit tax relief credit attached to a dividend paid during the imputation year by a company that is a member of the consolidated group at the time of payment:
- “(b) The amount of conduit tax relief adjustment calculated under **section FH 8 (5)** for a company that is a member of the consolidated group on the last day of the income year for which the adjustment arises: 25
- “(c) An allocation deficit debit arising under section MG 8, as applied by section MI 8, for a company that is a member of the consolidated group at the time the relevant dividend is paid: 30
- “(d) A debit arising to the account under section GC 22, as applied by section MI 9:
- “(e) A credit in the group account at any time (that has not previously been cancelled by a debit) if since the time that credit arose, there has been an increase of 34 or more percentage points in the percentage of the group’s shareholders who are resident in New Zealand, as measured by applying section MI 5 (3) to the group as if the group were a conduit tax relief company: 35 40

- “(f) The credit balance (if any) of the account if the consolidated group stops being required to maintain a group conduit tax relief account:
- 5 “(g) A credit transferred from the account to the company’s dividend withholding payment account under **section MI 20 (2)**.
- “(2) The debits arise at the following times:
- “(a) In the case of a dividend attachment debit, on the date the dividend is paid:
- 10 “(b) In the case of a conduit tax relief adjustment, on the date on which the income tax return for the income year for which the adjustment is made is filed:
- “(c) In the case of an allocation deficit debit, at the end of the imputation year in which the debit arises:
- 15 “(d) In the case of a tax advantage arrangement debit, at the end of the imputation year in which the arrangement commenced:
- “(e) In the case of a resident shareholder percentage debit, on the date that the 34 percentage point change threshold is first reached:
- 20 “(f) In the case of a termination debit, immediately before the consolidated group stops being required to maintain a conduit tax relief account:
- “(g) In the case of a credit transfer debit, immediately before the end of the imputation year.
- 25 “(3) For the purpose of **subsection (1)(e)**, in determining whether a credit has been cancelled by a subsequent debit—
- “(a) **Section MI 15** does not apply; and
- “(b) A credit arising under **section MI 17 (1)(e)** is treated as arising on the date on which the corresponding credit arose in the conduit tax relief account of the group member; and
- 30 “(c) An amount of debit can only cancel out a credit once; and
- “(d) A debit is offset against credits in the order in which the credits arise.
- 35 “(4) A debit arises under **subsection (1)(e)** if it would have arisen but for an arrangement that affects the shares of a company in the consolidated group, if a purpose or effect of the arrangement is to defeat the intent and application of **subsection (1)(e)**.
- 40

- “MI 19. Debiting and crediting between group and individual conduit tax relief accounts—**(1) A credit does not arise to an individual company’s conduit tax relief account if a credit arises to a consolidated group’s conduit tax relief account for: 5
- “(a) An amount of conduit tax relief arising under section KH 1 or NH 7; or
  - “(b) A conduit tax relief credit attached to a dividend derived.
- “(2) A debit does not arise to an individual company’s conduit tax relief account if a debit arises to a consolidated group’s conduit tax relief account for: 10
- “(a) The amount of conduit tax relief credit attached to a dividend paid; or
  - “(b) The amount of any conduit tax relief credit or tax credit refunded; or 15
  - “(c) Any allocation debit arising under section MG 8, as applied by section MI 8.
- “(3) Subject to **subsection (5)**, if a company has a credit in its individual conduit tax relief account (referred to as the ‘company credit’) and is a member of a consolidated group at that time, the credit must be transferred to the consolidated group’s conduit tax relief account to the extent that— 20
- “(a) A debit arises under **section MI 18** to be recorded in the consolidated group’s conduit tax relief account at that time; and 25
  - “(b) That debit is not offset, determined by applying section MI 5 (5), against a credit in the consolidated group’s conduit tax relief account which arose on or before the same date on which the company credit arose; and 30
  - “(c) The credit does not exceed the consolidated group’s debit.
- “(4) If credit amounts in the individual conduit tax relief accounts of 2 or more members of a consolidated group would, but for this subsection, be required to be transferred to the group’s conduit tax relief account under **subsection (3)**, those amounts must be transferred to the group account and must be credited— 35
- “(a) So far as the relevant debit to the group’s conduit tax relief account extends and no further; and 40
  - “(b) In the order in which those credits arose, determined by applying section MI 5 (5); and
  - “(c) If 2 or more credits arose at the same time—

“(i) In the order elected by the consolidated group in such manner as the Commissioner may allow; or

“(ii) If no such election is made, on a pro rata basis.

5 “(5) A debit does not arise to a company’s conduit tax relief account but does arise to a consolidated group’s conduit tax relief account to the extent that—

10 “(a) A debit would, but for this subsection, arise in the individual conduit tax relief account of a company that is a member of a consolidated group at the time the debit arises; and

“(b) The arising of the debit would result in or increase the debit balance in the individual company’s conduit tax relief account.

15 “MI 20. **End of year clearing transfer to or from dividend withholding payment account**—(1) If immediately before the end of the imputation year and before a transfer is made under this subsection, but after a transfer from the imputation credit account is credited under **section**

20 **ME 12 (2)(l)(i)** and an amount is credited to the conduit tax relief account under **section MI 17 (2)(a)(i)**, a consolidated group’s dividend withholding payment account is in credit and its group conduit tax relief account is in debit, the consolidated group must:

25 “(a) Apply **section MI 19 (3)** as if the debit balance were the debit referred to in **section MI 19 (3)(b)**; and

“(b) To the extent that the debit balance is not eliminated under **paragraph (a)**, transfer from the dividend withholding payment account to the conduit tax relief account the lesser of:

30 “(i) The credit balance in the dividend withholding payment account; and

“(ii) The debit balance remaining in the conduit tax relief account after **paragraph (a)** has been applied.

35 “(2) If immediately before the end of the imputation year and before a transfer is made under this subsection, but after a transfer from the imputation credit account is credited under **section ME 12 (2)(l)(i)** and an amount is credited to the conduit tax relief account under **section MI 17 (2)(a)(i)**, a consolidated group’s dividend withholding payment account is in debit and its group conduit tax relief account is in credit, the consolidated group

40 must transfer from the conduit tax relief account to the dividend withholding payment account the lesser of the two balances.

**“MI 21. Further dividend withholding payment payable in respect of conduit tax relief account debits—**

(1) If a debit arises to a consolidated group’s conduit tax relief account under **section MI 18 (1)(c), (d) or (e)**, the group must pay to the Commissioner a further amount of dividend withholding payment equal to the debit not later than 20 days after the end of the quarter in which the debit arises. 5

“(2) The further amount of dividend withholding payment does not give rise to a credit in the group’s dividend withholding payment credit account. 10

“(3) If a debit arises to a consolidated group’s conduit tax relief account under **section MI 18 (1)(f)**, the group must pay to the Commissioner an amount of dividend withholding payment equal to the debit not later than 20 days of the end of the quarter in which the debit arises. 15

“(4) If a credit balance is transferred from a consolidated group’s conduit tax relief account to its dividend withholding payment account under **section MI 20 (2)**, the consolidated group must pay to the Commissioner an amount of dividend withholding payment equal to the amount transferred by 20 June after the imputation year in which the transfer is made. 20

“(5) Subject to section 103A of the Tax Administration Act 1994, this Act and the Tax Administration Act 1994, other than the dividend withholding payment rules, so far as they are applicable and with any necessary modifications, apply to a dividend withholding payment for which a consolidated group is liable under this section as if it were income tax. 25

**“MI 22. Application of specific conduit tax relief account provisions to consolidated groups—** 30

(1) Section MG 8, as applied by section MI 8, applies with any necessary modifications, to a consolidated group as if it were a single company, but for the purposes of section MG 8 (2) to (4), dividends paid by one member of the consolidated group to another member of the consolidated group are not taken into account. 35

“(2) Section MI 10 (5) and section 103A of the Tax Administration Act 1994 apply, with any necessary modifications, to a consolidated group as if—

“(a) It were a single company; and 40

“(b) Each reference to a provision of this Act were a reference to the equivalent provision that applies to consolidated groups.

“(3) Section GC 22, as applied by section MI 9, applies with any necessary modifications, to the accounts of a consolidated group, as if—

“(a) The consolidated group were a single company; and

5 “(b) References to provisions of this Act were references to the equivalent provisions that apply to equivalent accounts.

“(4) If a credit balance is transferred to a consolidated group’s conduit tax relief account from its dividend withholding payment account under **section MI 20 (1)(b)**—

10 “(a) The consolidated group is entitled to a refund of the amount of the transfer; and

“(b) The Commissioner must pay the refund to the consolidated group or apply the refund to satisfy an obligation of the consolidated group to pay an amount to the Commissioner at that time.”

15 (2) **Subsection (1)** applies to the 1998–99 and subsequent imputation years.

**22. Applications of tax codes specified in tax code declarations or tax code certificates**—(1) In the proviso to section NC 8 (1), “Sec” is replaced by “S”.

(2) **Subsection (1)** applies to tax deductions from source deduction payments made on and after 1 April 1999.

**23. Employee using incorrect tax code**—(1) Section NC 12A (3) is replaced by:

25 “(3) An amended tax code specified by the Commissioner under subsection (1) does not apply on and after the date that a change in an employee’s circumstances results in a different tax code being applicable.”

30 (2) **Subsection (1)** applies to tax deductions from source deduction payments made on and after 1 April 1999.

**24. Application of NRWT rules**—(1) In section NG 1 (2)(d), “applies.” is replaced by “applies; or”, and the following is inserted:

35 “(e) Interest which is paid to or derived by 2 or more persons jointly if at least one of those persons is a New Zealand resident.”

(2) **Subsection (1)** applies on and after the date this Act receives the Royal assent.

**25. Reduction in liability under conduit tax relief—**

(1) In section NH 7 (1), the portion before the formula is replaced by:

“(1) A company that is a conduit tax relief company at the time it is required to pay the Commissioner a dividend withholding payment may reduce the dividend withholding payment by the following amount:” 5

(2) In section NH 7 (2)(b), “receipt.” is replaced by “receipt; or” and the following is added:

“(c) For a company incorporated after the second income year before the year of receipt, the last day of the quarter in which the dividend was received.” 10

(3) Section NH 7 (3) is replaced by:

“(3) If a company to which subsection (2) applies is a listed company, the company may use: 15

“(a) The record date (the date on which entitlement to a dividend is determined) for a dividend instead of the date on which the dividend is paid; or

“(b) Any date in the income year on which the company, for whatever commercial reason, calculates the percentage of non-resident shareholders. 20

“(3A) If there is a conduit tax relief group member in respect of a company (referred to in this section as the ‘first company’), subsection (2) applies as if the company referred to in that subsection were the company: 25

“(a) In which one or more non-residents have a direct voting interest; and

“(b) That has a 100% voting interest (calculated as if section OD 3 (3)(d) did not apply to deem the company’s interests to be held by others) in the first company. 30

“(3B) Subsection (3A) does not apply if the date that would be determined for measuring non-resident shareholders under that subsection is before the date of incorporation of the first company.”

(4) Subsections (1) to (3) apply to dividends paid on or after 1 April 1998. 35

**26. Definitions—**(1) This section applies to definitions in section OB 1.

(2) In the definition of “available subscribed capital”, after paragraph (ix) of item “b”, the following is inserted: 40

“(ixa) Consideration received by a company if the consideration is the giving up of rights or interests of membership in the company, (or an associated

5 company or a company that is in substance the  
same company) to the extent that the consideration  
is more than the total available subscribed capital  
per share for those foregone rights or interests of  
membership on the date the rights or interests are  
given up. The total available subscribed capital per  
share is calculated after deducting the ineligible  
capital amount, if any, and as if the foregone rights  
or interests were shares even if those rights and  
10 interests are not shares; or”.

(3) The definition of “conduit tax relief company” is replaced  
by:

“ ‘Conduit tax relief company’ means—

15 “(a) A company that has made an election under  
section MI 2, until the revocation of that election is  
effective:

“(b) A company that is a conduit tax relief  
company under **section MI 16**.”

(4) The definition of “financial statements” is replaced by:

20 “ ‘Financial statements’, in Part EE, has the meaning set  
out in section 8 of the Financial Reporting Act 1993,  
but the reference to an ‘entity’ and to a ‘reporting  
entity’ is to be read as a reference to a ‘taxpayer’.”

25 (5) In paragraph (b) of the definition of “small taxpayer”,  
“section OD 7” is replaced by “section OD 8(1)(a) or  
OD 8(1)(b)”.

(6) **Subsection (2)** applies on and after **20 May 1999**.

(7) **Subsections (3) and (5)** apply to the 1998–99 and subsequent  
income years.

30 (8) **Subsection (4)** applies to the 1999–2000 and subsequent  
income years.

**27. Defining when 2 persons are associated persons—**

(1) After section OD 7 (2), the following is added:

35 “(3) This section does not apply to a special corporate entity  
that is or was—

“(a) A State-owned enterprise; or

“(b) A Crown Research Institute; or

“(c) A hospital or health service within the meaning of  
section 2 of the Health and Disability Services Act  
40 1993; or

“(d) A Crown health enterprise.”

(2) **Subsection (1)** applies to the 1994–95 and subsequent  
income years.

(3) Despite **subsection (2)**, **subsection (1)** does not apply if a taxpayer has filed a return of income on or before **20 May 1999** on the basis that section OD 7 applied to the taxpayer.

**28. Further definitions of associated persons**—(1) After section OD 8 (5), the following is added: 5

“(6) This section does not apply to a special corporate entity that is or was—

“(a) A State-owned enterprise; or

“(b) A Crown Research Institute; or

“(c) A hospital or health service within the meaning of section 2 of the Health and Disability Services Act 1993; or 10

“(d) A Crown health enterprise.”

(2) **Subsection (1)** applies to the 1994–95 and subsequent income years. 15

(3) Despite **subsection (2)**, **subsection (1)** does not apply if a taxpayer has filed a return of income on or before **20 May 1999** on the basis that section OD 8 applied to the taxpayer.

## PART 2

### AMENDMENTS TO TAX ADMINISTRATION ACT 1994 20

**29. Tax Administration Act 1994**—This Part amends the Tax Administration Act 1994\*.

\*1994, No. 164

Amendments: 1995, Nos. 24, 32, 72, 77; 1996, Nos. 19, 56, 67, 142, 159, 161; 1997, Nos. 9, 59, 74; 1998, Nos. 7, 101, 107

**30. Shareholder dividend statement to be provided by company**—(1) In section 29 (1), “conduit tax relief amount” is replaced by “conduit tax relief credit”. 25

(2) After section 29 (1)(i), the following is inserted:

“(ia) When a conduit tax relief credit is attached to the dividend, the information required to be included in the shareholder dividend statement in accordance with section 30A:” 30

(3) **Subsections (1)** and **(2)** apply to dividends paid on or after 1 April 1998.

**31. Statement to shareholder when conduit tax relief credit attached to dividend**—(1) Section 30A (a) is repealed.

(2) **Subsection (1)** applies on 1 April 1998. 35

**32. Annual income tax returns not required**—(1) In section 33A (5), “person” is replaced by “natural person”.

(2) **Subsection (1)** applies to the 1999–2000 and subsequent income years.

**33. Electronic filing exemption for new businesses—**

(1) After section 36C, the following is inserted:

5 “36CA. (1) An employer who begins business after 1 April 1999 and who is required to furnish an employer monthly schedule electronically may furnish an employer monthly schedule on the form prescribed by the Commissioner for the first six months of business.

10 “(2) The first six months of business begins on the date on which the employer begins business.”

(2) **Subsection (1)** applies to employer monthly schedules that must be furnished on and after 1 April 1999.

**34. New section inserted—**(1) After section 120P, the following is inserted:

15 “120PA. **Applying foreign investor tax credit to earlier income year—**If a taxpayer sets off a foreign investor tax credit against its income tax liability for an earlier income year under section LE 2 (4)(b) of the Income Tax Act 1994, the amount set off does not reduce the taxpayer’s tax payable for that year for the purpose of this Part.”

20 (2) **Subsection (1)** applies to the 1997–98 and subsequent income years.

**35. Non-electronic filing penalty—**(1) Section 139AA (2) is replaced by:

25 “(2) An employer is liable to a non-electronic filing penalty if the employer furnishes the employer monthly schedule in a format that is not prescribed.”

30 (2) **Subsection (1)** applies to employer monthly schedules that must be furnished on and after the date this Act receives the Royal assent.

PART 3

AMENDMENTS TO GOODS AND SERVICES TAX ACT 1985

**36. Goods and Services Tax Act 1985—**This Part amends  
35 the Goods and Services Tax Act 1985\*.

\*R.S. Vol 27, p. 425

Amendments: 1992, No. 2; 1993, Nos. 10, 14, 28, 116, 131; 1994, Nos. 77, 164; 1995, Nos. 7, 22, 39, 42, 75, 80, 83; 1997, Nos. 27, 59, 67, 159; 1997, No. 74; 1998, No. 7

**37. Value of supply of goods and services—**(1) After section 10 (16), the following is inserted:

“(16A) Subsection (16) does not apply to a supply of services described in **section 11 (2A)**.”

(2) After section 10 (17), the following is inserted:

“(17A) Subsection (17) applies to a supply of services described in **section 11 (2A)** which is in exchange for a token, stamp or voucher even if the monetary value of the token, stamp or voucher is stated thereon.”

(3) **Subsections (1) and (2)** apply on and after **20 May 1999**.

**38. Zero-rating**—(1) After section 11 (2), the following is inserted:

“(2A) Subsection (2)(e) does not apply to a supply of services under an agreement that is entered into, whether directly or indirectly, with a person who is not resident in New Zealand if—

“(a) The performance of the services is, or will be, received by another person, including—

“(i) An employee of the person who is not resident in New Zealand; or

“(ii) A director of a person that is a company and that is not resident in New Zealand; and

“(b) It is reasonably foreseeable, at the time the agreement is entered into, that the other person will not receive the performance of the services in the course of making taxable or exempt supplies; and

“(c) The other person is, or will be, in New Zealand at the time the services are performed.

“(2B) For the purpose of **subsection (2)(e)** and **(2)(fa)**, ‘outside New Zealand’, for a company or an unincorporated body that is not resident, includes a minor presence in New Zealand, or a presence that is not effectively connected with the supply.”

(2) **Subsection (1)** applies on and after **20 May 1999**.

#### PART 4

##### AMENDMENTS TO ESTATE AND GIFT DUTIES ACT 1968

**39. Estate and Gift Duties Act 1968**—This Part amends the Estate and Gift Duties Act 1968\*.

\*R.S. Vol. 28, p. 341

Amendments: 1992, No. 117; 1993, No. 132; 1994, No. 78; 1995, No. 23; 1996, Nos. 62, 67; 1997, Nos. 74, 107; 1998, No. 101

**40. New section inserted**—(1) After section 75C, the following is inserted:

“75D. **Exemption for dispositions by raspberry industry entities**—(1) This section applies upon the making of regulations to dissolve the New Zealand Raspberry Marketing Council, the Raspberry Marketing Export Authority, and the  
5 District Raspberry Marketing Committees established under the Raspberry Marketing Regulations 1979.

“(2) When the Raspberry Marketing Authorities (Dissolution) Regulations 1999 are made, the making and coming into force does not constitute a dutiable gift to members.

10 “(3) When the Cold Storage Nelson Limited shares owned by the Nelson Raspberry Marketing Committee vest in Rubus Investments Nelson Limited, the vesting does not constitute a dutiable gift to Rubus Investments Nelson Limited.”

15 (2) **Subsection (1)** applies on and after the date that the Raspberry Marketing Authorities (Dissolution) Regulations 1999 are made.

## PART 5

### AMENDMENTS TO INCOME TAX ACT 1976

20 **41. Income Tax Act 1976**—This Part amends the Income Tax Act 1976\*.

\*R.S. Vol. 29-1, R.S. Vol. 29-2  
Amendments: 1994, Nos. 73, 76, 84, 88, 164; 1995, Nos. 17, 20, 28, 74; 1996, Nos. 18, 51, 159; 1997, No. 74; 1998, No. 107

### **42. Defining when 2 persons are associated persons—**

(1) After section 8 (2), the following is added:

“(3) This section does not apply to a special corporate entity that is or was—

- 25 “(a) A State-owned enterprise; or  
“(b) A Crown Research Institute; or  
“(c) A Crown health enterprise.”

(2) **Subsection (1)** applies on and after 1 April 1992.

30 (3) Despite **subsection (2)**, **subsection (1)** does not apply if a taxpayer has filed a return of income on or before **20 May 1999** on the basis that section 8 applied to the taxpayer.

**43. Profits or gains from land transactions**—(1) After section 67 (3), the following is inserted:

35 “(3A) Subsections (2) and (3) do not apply to a special corporate entity that is or was—

- “(a) A State-owned enterprise; or  
“(b) A Crown Research Institute; or  
“(c) A Crown health enterprise.”

(2) **Subsection (1)** applies on and after 1 April 1992.

(3) Despite **subsection (2)**, **subsection (1)** does not apply if a taxpayer has filed a return of income on or before **20 May 1999** on the basis that section 67 applied to the taxpayer.

**44. Associated persons**—(1) After section 214E(2), the following is added: 5

“(3) This section does not apply to a special corporate entity that is or was—

“(a) A State-owned enterprise; or

“(b) A Crown Research Institute; or

“(c) A Crown health enterprise.” 10

(2) **Subsection (1)** applies on and after 1 April 1992.

(3) Despite **subsection (2)**, **subsection (1)** does not apply if a taxpayer has filed a return of income on or before **20 May 1999** on the basis that section 214E applied to the taxpayer.

**45. Definition of term “associated persons”**— 15  
(1) Section 245B is numbered as subsection (1), and the following is added:

“(2) This section does not apply to a special corporate entity that is or was—

“(a) A State-owned enterprise; or 20

“(b) A Crown Research Institute; or

“(c) A Crown health enterprise.”

(2) **Subsection (1)** applies on and after 1 April 1992.

(3) Despite **subsection (2)**, **subsection (1)** does not apply if a taxpayer has filed a return of income on or before **20 May 1999** on the basis that section 245B applied to the taxpayer. 25

## PART 6

### ANNUAL RATES OF INCOME TAX FOR 1999–2000

**46. Rates of income tax for 1999–2000 income year**— 30  
(1) Income tax imposed by section BB 1 of the Income Tax Act 1994 must, for the 1999–2000 income year, be paid at the basic rates specified in Schedule 1 of that Act.

(2) The Taxation (Annual Rates of Income Tax 1998–99) Act 1998 is repealed.