

Subpart IA — General rules for tax losses

IA 1 Outline of subpart

This subpart—

- (a) defines the relationship between the core provisions of this Act, the provisions of this Part, and other provisions in this Act that allow a person with a tax loss to use the amount of the loss in a tax year to reduce their taxable income; and
- (b) establishes the general rules for using a tax loss and the priorities for that use, first, in carrying it forward and subtracting the amount from net income for a following tax year or years, and secondly, in certain general and particular circumstances.

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

Origin: IE 1

IA 2 Tax losses

What is a tax loss?

- (1) A person's tax loss for a tax year is found by adding together the amounts referred to in subsections (2) to (4).

Loss balance carried forward

- (2) If the person has a loss balance carried forward to the tax year, the amount is included in their tax loss for the tax year to the extent to which it is not subtracted from their net income for the tax year.

Net loss

- (3) If the person has a net loss under section BC 4 (Net income and net loss) for the tax year, the amount is a tax loss component included in their tax loss for the tax year.

Additional amounts

- (4) If the person is described in 1 or more of the following paragraphs and has the amount described in the paragraph, the amount is included as a tax loss component in their tax loss for the tax year:
 - (a) a person whose imputation credits are included in their annual gross income for the tax year: the amount of converted imputation credits arising under section LB 2(3) and (3A) (Credit of tax for imputation credit) for the tax year:
 - (b) a member fund that incurs excess expenditure:

- (i) the amount that is included in the tax loss under section DV 5(4)(b) (Investment funds: transfer of expenditure to master funds); and
 - (ii) the amount that the fund chooses under section DV 7(2) (Carry forward of expenditure) to treat as an amount added to the tax loss under this section:
- (c) a person who has an unallocated deduction for the payment of a supplementary dividend in the corresponding income year: the amount referred to in section LE 4(5) (Allocation of deductions by section LE 3 holding company) and calculated under section IV 1 for the tax year:
 - (d) an Australian imputation credit account company which has paid further income tax for the tax year that cannot be credited against a future income tax liability: the payment referred to in section ME 9(5B) (which relates to an end of year debit balance) for the tax year:
 - (e) a person who has attributed CFC income for the corresponding income year: the amount referred to in section LC 4(6) (Foreign tax credits: CFCs) for the corresponding income year:
 - (f) a person who has an unused attributed CFC net loss for the corresponding income year: the amount referred to in section IQ 2(3) for the corresponding income year:
 - (g) a person who has an unused FIF net loss for the corresponding income year: the amount referred to in section IQ 3(4) for the corresponding income year:
 - (h) a person with a specified activity net loss for the corresponding income year: the amount referred to in section IZ 1(1) for the corresponding income year.

Ring-fenced amounts

- (5) This section, and sections IA 3 and IA 4, do not apply to the amounts referred to in section IA 7, which are subject to particular rules in other Parts or subparts that limit the way in which a person may use them.

Tax loss component

- (6) For the purposes of this Part, a **tax loss component** means an amount included in a tax loss for a tax year under subsection (3) or (4).

Defined in this Act: amount, annual gross income, attributed CFC income, attributed CFC net loss, Australian imputation credit account company, corresponding income year, deduction, FIF net loss, further income tax, imputation credit, income tax liability, loss balance, net income, net loss, specified activity net loss, supplementary dividend, tax loss, tax loss component, tax year

Origin:	(1)	BC 4, IE 1(1), IE 1(3)(a)
	(2)	IE 1(2), IE 1(3)(a)
	(3)	IE 1(3)(a)
	(4)	DV 5(4)(b), DV 7(2), IQ 2(4), IQ 3(5), IZ 1(9), LB 2(3), (3A), LC 4(6), LE 4(5), ME 9(5B)
	(5)	new
	(6)	new

IA 3 Using tax losses in tax year

Paying shortfall penalty

- (1) A person who has a tax loss for a tax year may use some or all of the amount of the tax loss under section IW 1 to pay a shortfall penalty.

Companies

- (2) A company that has a tax loss for a tax year may—
- (a) make the amount available to another person under section IC 5 to subtract from the other person's net income for the tax year; or
 - (b) use the amount under section NH 3(2) (Payment and recovery of dividend withholding payment) to satisfy a liability in relation to an amount of a dividend withholding payment payable in the corresponding income year; or
 - (c) use the amount under section NH 4(5), (6), or NH 5(4), (7) (which relate to dividend withholding payments) to obtain a refund of an overpayment of dividend withholding payment made in the corresponding income year.

Taxable distributions

- (3) The amount of a tax loss for a tax year of a beneficiary of a non-qualifying trust may be used under section HH 3(4) (Income of beneficiaries) to adjust the amount of a taxable distribution derived in the corresponding income year.

Remaining loss balance carried forward

- (4) If a person has a balance of tax loss remaining for a tax year after the uses described in this section, the balance is carried forward to the next tax year as a loss balance.

Relationship with sections IA 5 to IA 8

- (5) Sections IA 5 to IA 8 override this section.

Defined in this Act: amount, company, corresponding income year, dividend withholding payment, loss balance, net income, shortfall penalty, tax loss, tax year, taxable distribution, trustee

Origin:	(1)	BC 4(4), IG 10
	(2)	IE 1, NH 3(2), NH 4(5), (6), NH 5(6), (7)
	(3)	HH 3(4)
	(4)	IE 1(2)(b)
	(5)	new

IA 4 Using loss balances carried forward to tax year

Priority uses

- (1) A person's loss balance carried forward under section IA 3(4) to a tax year, must—
 - (a) first, be subtracted from their net income, so far as it extends, for the tax year; and
 - (b) secondly, to the extent of a remaining loss balance, be included in their tax loss for the tax year.

Relationship with other provisions

- (2) Sections IA 5 to IA 8 override this section. Section IP 3 modifies this section for a company's part-year calculations. Sections IZ 4 to IZ 6 modify this section for certain tax years.

Defined in this Act: amount, loss balance, net income, tax loss, tax year

Origin:	(1)	IE 1(2)
	(2)	IE 1(2)

IA 5 Restrictions on companies' loss balances carried forward

General statement

- (1) A company's tax loss component is carried forward in a loss balance only if the minimum requirements in subsections (2) and (3) are met.

Continuity of voting interests

- (2) The tax loss component is carried forward in a loss balance under section IA 3(4) only if a group of persons holds for the continuity period minimum voting interests in the company that add up to at least 49%.

Continuity of market value interests

- (3) If a market value circumstance exists for the company at any time during the continuity period, the group of persons must also hold for the continuity period, minimum market value interests in the company that add up to at least 49%.

Breach of continuity of ownership in period

- (4) If the requirements set out in subsection (2) or (3) are not met, section IP 3 applies to determine whether some or all of the tax loss component is carried forward in a loss balance.

Some definitions

- (5) In this section,—

continuity period means the period of time from the start of the income year that corresponds to the tax year in which the tax loss component is included in the tax loss to the end of the income year that corresponds to the tax year in which the company uses the tax loss component

minimum market value interest, for a person and a period, means the lowest market value interest they have in the company during the continuity period

minimum voting interest, for a person and a period, means the lowest voting interest they have in the company during the continuity period.

Defined in this Act: company, continuity period, group of persons, income year, loss balance, minimum market value interest, minimum voting interest, tax loss component, tax year

Origin:	(1)	IF 1(1)
	(2)	IF 1(1)
	(3)	IF 1(1)
	(4)	IF 1(1)
	(5)	IF 1(1)

IA 6 Restrictions on companies grouping tax losses

Groups of companies

- (1) A company in a group of companies may use a tax loss under subpart IC only if it meets the requirements set out in section IC 5.

Consolidated groups of companies

- (2) Subpart ID applies to the grouping of tax losses by a consolidated group of companies.

Defined in this Act: company, consolidated group, group of companies, tax loss

Origin:	(1)	IG 1
	(2)	IG 1

IA 7 Restrictions relating to ring-fenced tax losses

Non-application of sections IA 2 to IA 4

- (1) Sections IA 2 to IA 4 (called the general rules in this section) do not apply to an amount referred to in subsections (2) to (8).

LAQC net losses

- (2) The general rules do not apply to a net loss of a loss attributing qualifying company calculated under section BC 4 (Net income and net loss). The provision that deals with this net loss is section HG 16 (Net losses of LAQC to be attributed to shareholders).

Policyholder net losses

- (3) The general rules do not apply to a life insurer's policyholder net loss under section EY 42(10) (Policyholder income formula). The provision that deals with this net loss is section IT 1.

Investment funds' excess expenditure

- (4) The general rules do not apply to excess expenditure of investment funds under sections DV 5 and DV 7 (which are the provisions dealing with the amount) except—
- (a) the amount under section DV 5(4)(b) that the fund must treat as tax loss component under section IA 2(4)(b)(i); and
 - (b) the amount under section DV 7(2) that the fund chooses to treat as a tax loss component under section IA 2(4)(b)(ii).

Attributed CFC net losses

- (5) The general rules do not apply to an attributed CFC net loss except a surplus under section IQ 2(3). The provisions that deal with this net loss are sections IQ 2, IQ 4, and IQ 6 to IQ 9.

FIF net losses

- (6) The general rules do not apply to a FIF net loss except a surplus under section IQ 3(4). The provisions that deal with this net loss are sections IQ 3, IQ 5, and IQ 6 to IQ 9.

Mining net losses

- (7) The general rules do not apply to a net loss of a mining company, a resident mining operator, or a non-resident mining operator to the extent to which the net loss relates to a licence area. The provisions that deal with this net loss are sections IS 1 to IS 6.

Petroleum net losses

- (8) The general rules do not apply to a net loss of a petroleum mining company to the extent to which the net loss relates to a licence area. The provision that deals with this net loss is section IZ 3.

Defined in this Act: amount, attributed CFC net loss, FIF net loss, life insurer, loss attributing qualifying company, mining company, net loss, non-resident mining operator, partnership loss, petroleum mining company, policyholder net loss, resident mining operator

Origin:	(1)	new
	(2)	BC 4, HG 16
	(3)	EY 42(10), IT 1
	(4)	DV 5(4)(b), DV 7(1)
	(5)	IE 3(5), IG 4, IG 7(2)
	(6)	IE 4(5), IG 5(1), IG 7(2)
	(7)	IH 1, IH 3, IH 4
	(8)	IH 2(1)

IA 8 Restrictions relating to schedular income

Certain schedular income

- (1) For the purposes of section BC 7 (Income tax liability of person with schedular income), a person must not take a tax loss into account in calculating a schedular income tax liability for a tax year for income described in the following paragraphs of the definition of **schedular income**:
- (a) paragraph (c), which relates to non-resident entertainers; or
 - (b) paragraph (e), which relates to non-resident general insurers; or
 - (c) paragraph (f), which relates to non-resident shippers; or
 - (d) paragraph (g), which relates to non-resident film renters; or
 - (e) paragraph (h), for schedular income subject to final withholding.

Standard-cost household service

- (2) A person who, in a tax year, derives schedular income from an activity of providing a standard-cost household service must not take a net loss from the activity into account in calculating their income tax liability for the corresponding tax year if the net loss is obtained by using for a deduction a figure that is, or a figure that is calculated using a method that is, given by a determination of the Commissioner under section 91AA of the Tax Administration Act 1994.

Relationship with sections IA 3 to IA 7

- (3) This section overrides sections IA 3 to IA 7.

Defined in this Act: Commissioner, deduction, income tax liability, net loss, non-resident, non-resident entertainer, schedular income, schedular income subject to final withholding, schedular income tax liability, standard-cost household service, tax loss, tax year

Origin:	(1)	ID 1(1)
	(2)	ID 1(2)
	(3)	new

IA 9 Ordering rules

Tax loss components

- (1) Tax loss components that are included in a tax loss must be used in the order in which they arose.

Ring-fenced tax losses

- (2) Ring-fenced tax losses must be used in the order in which they arose.

Losses in same tax year: consolidated groups and amalgamated companies

- (3) For a consolidated group or on the amalgamation of companies, tax loss components that the group or the companies have for the same tax year must be used in the order decided, as applicable, by the consolidated group or the amalgamated company, who must also notify the Commissioner of the decision. Without notification, the amounts must be used on a pro rata basis.

Defined in this Act: amount, amalgamated company, amalgamation, Commissioner, company, consolidated group, loss balance, notify, ring-fenced tax loss, tax loss, tax loss component, tax year

Origin:	(1)	IE 1(3)(b)
	(2)	IE 1(3)(b)
	(3)	IF 5, IG 6(5)

IA 10 Amended assessments

When this section applies

- (1) This section applies if, in a tax year, the Commissioner amends under section 113 of the Tax Administration Act 1994 a person's assessment for an earlier tax year and the amendment adjusts the amount of a tax loss component or a ring-fenced tax loss for the earlier tax year.

Reduction

- (2) If the amount is reduced in the adjustment, the person must reduce their loss balance or ring-fenced tax loss for the earlier tax year by the amount of the adjustment. If the loss balance or ring-fenced tax loss has been used in earlier tax years, they must similarly apply the reduction to the use of the loss balance or ring-fenced tax loss.

Increase

- (3) If the amount is increased in the adjustment, the person must add an amount to their loss balance or ring-fenced tax loss for the earlier tax year.

Defined in this Act: amount, assessment, Commissioner, loss balance, net loss, ring-fenced tax loss, tax loss, tax year

Origin: (1) new
(2) new
(3) new

Subpart IC — Grouping tax losses

Introductory provisions

IC 1 Company A making tax loss available to company B

When this subpart applies

- (1) This subpart applies if 1 company in a group of companies (**company A**) has a tax loss for a tax year that it makes available to another company in the group (**company B**) to subtract from its net income for the tax year.

Requirements for grouping tax losses

- (2) The amount of a tax loss that company A has for a tax year may be made available to company B to subtract from its net income for the tax year only if—
- (a) the threshold levels in section IC 2 are met; and
 - (b) the companies meet all the requirements in section IC 5.

Losing continuity or commonality in tax year

- (3) If company A or company B fail to meet 1 or both of the threshold levels referred to in subsection (2)(a), a tax loss may not be grouped unless section IP 4 or IP 5 applies.

Link with subpart IA

- (4) This section overrides sections IA 3 and IA 4.

Defined in this Act: amount, company, group of companies, net income, tax loss, tax year

Origin:	(1)	IG 1(1)
	(2)	IG 1(1), (3), IG 2(1), (2)(c), (e)
	(3)	IG 1(1), IG 2(2)(c), (e)
	(4)	new

IC 2 Threshold levels for grouping tax losses in tax year

Company A: continuity of ownership

- (1) Company A may group a tax loss in a tax year under section IC 5 only if a group of persons holds for the income year corresponding to the tax year,—
- (a) minimum voting interests in the income year in the company that add up to at least 49%; and
 - (b) if a market value circumstance exists for the company at any time in the income year, minimum market value interests in the income year in the company that add up to at least 49%.

Company A and company B: common ownership

- (2) In addition to the requirements in subsection (1), company A and company B must have the required common ownership under section IC 3 or IC 4, as applicable, for the period referred to in section IC 6.

Minimum interests

- (3) In subsection (1),—
- minimum market value interest**, for a person and a period, means the lowest market value interest they have in the company during the relevant period
- minimum voting interest**, for a person and a period, means the lowest voting interest they have in the company during the relevant period.

Part years: relationship with subpart IP

- (4) Subpart IP applies in a tax year that is part of the commonality period if the following requirements are met for the relevant part-year:
- (a) continuity of ownership in company A under subsection (1); and
 - (b) common ownership of company A and company B under subsection (2).

Defined in this Act: company, group of companies, group of persons, income year, minimum market value interest, minimum voting interest, tax loss, tax year

Origin:	(1)	IG 1(1), (3), IG 2(1), (2)(c), (e)
	(2)	IG 1(1), (3), IG 2(1), (2)(c), (e)
	(3)	IG 2(1)
	(4)	new

IC 3 Common ownership: group of companies

Meaning

- (1) A **group of companies** means 2 or more companies in relation to which a group of persons holds—
- (a) common voting interests that add up to at least 66%; and
 - (b) if a market value circumstance exists for a company in a group of companies, common market value interests that add up to at least 66%.

Member at a time or for a period

- (2) A company is treated as a member of a group of companies at a particular time or for a particular period if the minimum common interests referred to in subsection (1) exists at the relevant time or is kept for the whole of the relevant period. But it is not necessary that the group of persons holding the interests stays the same for the whole of the relevant period.

Measuring common voting interests

- (3) In subsection (1)(a), if the percentage interests are the same for each company, a person's common voting interest in the relevant companies at a particular time is the percentage of their voting interests under section OD 3 (Voting interests) in each of the companies at that time. If the percentage interests in the companies differ, the percentage that counts is the lowest percentage voting interest in each of the companies for the period.

Measuring common market value interests

- (4) In subsection (1)(b), if the percentage interests are the same for each company, a person's common market value interest in the relevant companies at a particular time is the percentage of their market value interests under section OD 4 (Market value interests) in each of the companies at that time. If the percentage interests in the companies differ, the percentage that counts is the lowest percentage voting interest in each of the companies for the period.

Defined in this Act: common market value interest, common voting interest, company, group of companies, group of persons, income tax, market value circumstance, voting interest

Origin:	(1)	IG 1(2)
	(2)	IG 1(2)
	(3)	IG 1(5)(a)
	(4)	IG 1(5)(b)

IC 4 Common ownership: wholly-owned groups of companies*Interests held*

- (1) A **wholly-owned group of companies** means 2 or more companies in relation to which a group of persons holds, for the relevant period,—
- voting interests that add up to 100%; and
 - if a market value circumstance exists for a company in a group of companies, market value interests that add up to 100%.

Employees' share purchase schemes

- (2) In subsection (1), company shares held by the trustee of, or by employees or former employees of the company as a consequence of the operation of, a share purchase scheme are disregarded to the extent to which they represent voting interests in the company that add up to no more than 3%, or, as applicable, market value interests in the company that add up to no more than 3%.

Defined in this Act: company, employee, group of companies, group of persons, market value circumstance, market value interest, share, share purchase scheme, trustee, voting interest, wholly-owned group of companies

- Origin: (1) IG 1(3)(a)
(2) IG 1(3)(b)

Requirements and methods

IC 5 Company B using company A's tax loss

Requirements

- (1) Company A may make a tax loss available to company B to subtract from its net income under section IA 3(2) only if—
- (a) company A and company B have minimum common ownership for the relevant period as set out in sections IC 2(2) and IC 6; and
 - (b) company A meets the residence requirements set out in section IC 7; and
 - (c) company A has the required continuity of ownership under section IC 2(1) and, if it applies, section IC 10(2)(a); and
 - (d) the amount falls within the limits set by section IC 8(1) and (2); and
 - (e) the payment and notification requirements under section IC 9 are met.

Method: election or subvention payment

- (2) Having met all the requirements in subsection (1), company A may either—
- (a) choose to make a tax loss that it has in a tax year available to company B to use in the tax year; or
 - (b) agree with company B that company B should bear the amount of company A's tax loss, or take a share in it, in return for a payment by company B to company A.

Amounts used in tax year

- (3) Company B must subtract the amount of the tax loss referred to in subsection (2) from its net income for the tax year in which company A makes the amount available or receives the payment.

Decision to subtract amount

- (4) If company A chooses to make the amount available to company B under subsection (2)(a), that decision cannot later be changed.

Nature of payment

- (5) To the extent to which an amount of tax loss is subtracted from net income, a payment from company B to company A under subsection (2)(b) is not a dividend.

Part-year tax losses

- (6) Sections IP 4 and IP 5 modify this section for part-year calculations.

Tax years between 1981-82 and 1991-92

- (7) Section IZ 7 modifies the requirements in subsection (1)(a) and (b) for a tax loss component that arises in tax years between 1981-82 and 1991-92.

Defined in this Act: company, dividend, net income, payment, tax loss, tax loss component, tax year

Origin:	(1)	IG 2(2)(a) – (g)
	(2)	IG 2(2)(b)
	(3)	IG 2(2)(h)
	(4)	IG 2(2)
	(5)	IG 2(2)(j)
	(6)	IG 2(5)
	(7)	IG 2(2)(c)(iii), IG 2(2)(d)(ii)(B)

IC 6 Common ownership for period

Commonality period

- (1) For the purposes of section IC 2(2), common ownership under section IC 3 or IC 4, as applicable, must exist from the start of the income year in which company A has a tax loss component that is included in the tax loss to the end of the income year in which company B subtracts the amount of the tax loss component from its net income. In this Part, this length of time is called the **commonality period**.

Multiple net losses

- (2) The requirement in subsection (1) applies to net losses as they arise in an income year on an individual basis.

When companies have different balance dates

- (3) If the balance dates of company A and company B are different, section IC 10(2)(b) applies to extend the commonality period.

Relationship with section IZ 7

- (4) Section IZ 7(1) overrides this section.

Defined in this Act: balance date, commonality period, company, income year, loss balance, net income, tax loss

Origin:	(1)	IG 1(1), (2), IG 2(2)(c)(ii)
	(2)	IG 2(2)(c), (d)
	(3)	IG 2(2)(c)(iii), (4)(d)(ii), (5)(c)(ii)
	(4)	new

IC 7 Residence of company A

Incorporation or carrying on business

- (1) Company A, for the commonality period, must be either—
- (a) incorporated in New Zealand; or
 - (b) carrying on a business in New Zealand through a fixed establishment in New Zealand.

Resident in New Zealand

- (2) In addition to the requirement in subsection (1), company A, for the commonality period, must be resident in New Zealand, and must not be—
- (a) treated under a double tax agreement, and for the purposes of the agreement, as not resident in New Zealand; or
 - (b) liable by the law of another country or territory to income tax in that country or territory through domicile, residence, or place of incorporation.

Relationship with section IZ 7

- (3) Section IZ 7(2) overrides this section.

Defined in this Act: business, commonality period, company, double tax agreement, fixed establishment, income tax, New Zealand, resident in New Zealand

Origin:	(1)	IG 2(2)(d)
	(2)	IG 2(2)(d), (11)
	(3)	new

IC 8 Limitations on amounts used

Amount made available

- (1) A tax loss made available, or a payment made, under section IC 5(2) must be no more than the amount that would be company B's net income for the tax year in which it subtracts the amount of the tax loss.

Payment agreed

- (2) An amount that company B agrees to pay company A under section IC 5(2)(b) must be no more than the amount of company A's tax loss.

No accounting for amount by companies

- (3) Company A and company B must ignore this section in calculating their net incomes, but for the purposes of grouping tax losses, company B's net income is found after taking into account—
- (a) first, its own losses; and
 - (b) secondly, a tax loss made available to company B by another company; and
 - (c) thirdly, company A's tax loss.

Defined in this Act: amount, company, net income, pay, tax loss, tax year

- Origin:
- (1) IG 2(2)(f)
 - (2) IG 2(2)(g)
 - (3) IG 2(2)(f), (g)

IC 9 Date for payment and notice to Commissioner

Last date for payment

- (1) A payment under section IC 5(2)(b) must be made no later than the extended return date, or by a later date if the Commissioner allows.

Date and method for notifying Commissioner

- (2) Company A must notify the Commissioner of the payment by the extended return date or, if applicable, the later date. The notification may be made in the company's annual return of income (IR 4).

Extended return date

- (3) In subsection (1), **extended return date** means the 31 March that, for company A and the tax year in which the amount of the tax loss is subtracted, is the latest date to which the time for providing the return of income may be extended under section 37(5) of the Tax Administration Act 1994.

Defined in this Act: Commissioner, company, extended return date, payment, return of income, tax loss, tax year

Origin:	(1)	IG 2(2)(g), (3)
	(2)	IG 2(2)(g), (3)
	(3)	IG 2(2)(g), (3)

IC 10 When companies have different balance dates

When this section applies

- (1) This section applies in a tax year when group company A and group company B do not have the same balance date.

Continuity and common ownership extension

- (2) If company B's income year ends after the last day of company A's income year, for section IC 5 to apply to a tax loss in a corresponding tax year,—
- (a) continuity of ownership in company A under section IC 2(1) must extend to the end of company B's income year; and
- (b) common ownership of company A and company B under section IC 3 or IC 4 must extend to the end of company B's income year.

Part-year tax losses

- (3) This section applies for part-year calculations through section IP 2(4).

Defined in this Act: balance date, company, group of companies, income year, tax loss, tax year

Origin:	(1)	new
	(2)	IG 2(2)(c), (e)
	(3)	new

IC 11 Reduction of amounts used by group companies

When this section applies

- (1) This section applies in a tax year if—
- (a) group company A has a tax loss for the tax year that is made available to, and subtracted by, more than 1 company in the group of companies; and
- (b) the Commissioner determines under section 113 of the Tax Administration Act 1994 that the actual total tax loss for the tax year is less than the sum of the amounts subtracted by the group companies, and notifies company A.

Reduced amounts

- (2) The relevant companies must reduce the amounts they subtracted either in the way company A allocates under subsection (3) or, if no allocation is made, proportionately under subsection (4).

Company A's allocation

- (3) Company A may choose how the amount by which the total must be reduced is allocated between or among the companies. But if company A allocates an

amount to a company that is no longer a member of the group at the time of the allocation, and the amount is more than a proportionate amount, the allocation is disregarded. Subsection (6) sets out the notice requirements for this subsection.

Proportionate amounts

- (4) If company A does not allocate the amounts by which the total must be reduced, the sum of the amounts subtracted by the group companies is reduced in the same proportion as that by which the total amount was reduced in determining the actual total tax loss.

Subvention payment

- (5) If the reduction results in a payment under section IC 5(2)(b) being treated as a dividend, the dividend is reduced to the extent to which the payment is repaid by company A within the notification period referred to in subsection (6).

Notifying the Commissioner

- (6) For the purposes of subsections (3) and (5), company A must notify the Commissioner of the allocation within 6 months after the date on which the Commissioner notifies company A that the reduction is required. However, the Commissioner may agree to extend this notification period.

Defined in this Act: company, dividend, group of companies, notify, tax loss, tax year

Origin:	(1)	IG 2(7)
	(2)	IG 2(7)(c), (d)
	(3)	IG 2(7)(c)
	(4)	IG 2(7)(d)
	(5)	IG 2(7)
	(6)	IG 2(7)(c)

IC 12 Bad debts or decline in value of shares

When this section applies

- (1) This section applies to group companies in the tax year of deduction and in later tax years if—
- (a) a company other than company A in the group of companies has a deduction under section DB 23 (Bad debts) for a bad debt or a decline in the value of shares; and
 - (b) the amount of the debt or the payment for the subscription of the shares has been taken into account in calculating company A's net loss for a tax year; and
 - (c) the relevant tax year in which the deduction is made is the 1993-94 tax year or a later tax year.

No addition to loss balance

- (2) The amount of the tax loss cannot be added to the loss balance, except to the extent to which the tax loss is more than the total amount of the deduction.

Determining decline in value of shares

- (3) For the purposes of this section, shares are treated as declining in value if,—
- (a) on the disposal of the shares, the amount for which they were disposed of is less than the deduction for the cost of the shares; or
 - (b) when the shares have not been disposed of, by a decline in their value calculated under subpart EB (Valuation of trading stock (including dealer's livestock) or otherwise).

Defined in this Act: company, deduction, group of companies, payment, share, tax loss, tax year

Origin: (1) IG 2(6)(a),(c)
(2) IG 2(6)
(3) IG 2(6)(b)

Subpart ID — Use of tax losses by consolidated groups of companies

ID 1 Treatment of tax losses by consolidated groups

Group's net loss

- (1) A tax loss of a consolidated group of companies is treated as the group's tax loss, not the tax loss of any company in the group. Subparts IA and IC as modified by this subpart, apply as if the consolidated group were 1 company.

Ring-fenced tax losses

- (2) Nothing in this subpart applies to a consolidated group whose members are mining companies.

Defined in this Act: company, consolidated group, mining company, tax loss

Origin	(1)	IG 6(1A), (3)
	(2)	IG 6(2)

ID 2 Pre-consolidation losses: general treatment

When this section applies

- (1) This section applies in a tax year when a company that meets the requirements of section IA 5 and is a member of a consolidated group has a pre-consolidation loss balance carried forward to the tax year.

First use

- (2) The first use of the loss balance must be by the company in making the amount of the loss balance available to the consolidated group to subtract from its net income, so far as it extends, for the tax year.

Second use

- (3) If, after subsection (2) is applied, some of the loss balance remains, the company may choose to—
 - (a) subtract the remaining amount from its net income for the tax year; or
 - (b) make the remaining amount available to another consolidated group to subtract from its net income for the tax year; or
 - (c) make the remaining amount available under section IC 5.

Third use

- (4) If, after subsections (2) and (3) are applied, a loss balance remains, the remaining amount is carried forward to the next tax year.

Relationship with sections IA 3, IA 4, IC 5, and provisions in this subpart

- (5) This section overrides sections IA 3, IA 4, and IC 5. Sections ID 3 to ID 5 override this section.

Defined in this Act: amount, company, commonality period, consolidated group, net income, loss balance, tax year

Origin	(1)	IG 6(4)
	(2)	IG 6(4)(a)
	(3)	IG 6(4)(b)
	(4)	IG 6(6), (7)
	(5)	new

ID 3 Pre-consolidation losses: use by group companies*When this section applies*

- (1) This section applies in a tax year if—
- (a) a company (**company A**) that is a member of a consolidated group has a loss balance to which section ID 2 applies; and
 - (b) the company was, in the continuity period relating to the loss balance, a member of the same group of companies as 1 or more companies that are members of the group in the tax year in which the loss balance is used.

Limit on amount available

- (2) The amount made available under section ID 2(2) to the consolidated group is limited as follows:
- (a) if all the companies, including company A, in the consolidated group meet the requirements of section IC 6(1): the amount available is limited to the amount of the loss balance to the extent of the net income of the consolidated group for the tax year:
 - (b) if some of the companies in the consolidated group meet the requirements of section IC 6(1): the amount available is limited to the total of—
 - (i) the amount that company A could subtract from its net income for the tax year if it were not in the tax year a member of a consolidated group; and
 - (ii) the amount that could be made available under section IC 5 to the other member companies of the consolidated group in the tax year, ignoring the consolidation of the companies and presuming all steps required under section IC 5 were taken in order for the section to apply.

Relationship with section HB 2

- (3) In subsection (2), the calculation of the consolidated group's net income must be made in accordance with section HB 2(1) (Taxable income to be calculated generally as if group were single company).

Relationship with section ID 2

- (4) This section overrides section ID 2.

Defined in this Act: amount, company, consolidated group, loss balance, loss period, net income, tax loss, tax year

Origin:	(1)	IG 6(6)(a), (b)
	(2)	IG 6(6)(c), (d)
	(3)	IG 6(6)(c), (d)
	(4)	new

ID 4 Pre-consolidation losses on entry: part-year rule

When this section applies

- (1) This section applies if a company that is a member of a consolidated group has a loss balance to which section ID 2 applies when the company becomes a member of the group in a tax year.

Limit on amount available

- (2) The amount of the loss balance to be made available to the consolidated group under section ID 2(2) is the lesser of the amount the company establishes in a financial statement under subsection (3), or the amount calculated using the formula in subsection (4), but in either case, it may not be more than the limit set out in section ID 3(2).

Financial statement

- (3) The company may establish the amount to be made available by providing the Commissioner, at the time of providing the group's return of income, with an adequate and detailed financial statement that—
- (a) relates to the part of the tax year when the company was a member of the group; and
 - (b) discloses the amount that would be the net income attributable to the part of the tax year when the company was a member of the group, determined on a fair and reasonable basis of attribution.

Formula

- (4) The amount to be made available to the consolidated group under section ID 2(2) may be calculated using the formula:

unused amount *minus* (part-year net income *plus* part-year net loss).

Definition of items in formula

- (5) The items in the formula in subsection (4) are defined in subsections (6) to (8).

Unused amount

- (6) **Unused amount** means the loss balance carried forward from an earlier tax year or years that would be subtracted from the consolidated group's net income for the tax year but for section ID 3 or this section.

Part-year net income

- (7) **Part-year net income** means the company's net income for the part of the tax year before the company becomes a member of the consolidated group, calculated under section FD 9(2) (Part income year accounts and part tax year income allocation).

Part-year net loss

- (8) **Part-year net loss** means the amount of a pre-consolidation tax loss that must be subtracted under section ID 2 from the net income of another consolidated group of which the company was a member in the tax year before joining the consolidated group referred to in subsection (1).

Relationship with section ID 2

- (9) This section overrides section ID 2.

Defined in this Act: amount, Commissioner, company, consolidated group, financial statement, loss balance, net income, return of income, tax year

Origin:	(1)	IG 6(7)(a), (b)
	(2)	IG 6(7)(c), (d)
	(3)	IG 6(7)(d)
	(4)	IG 6(7)(c)
	(5)	IG 6(7)(c)
	(6)	IG 6(7)(c)
	(7)	IG 6(7)(c)
	(8)	IG 6(7)(c)
	(9)	new

ID 5 Pre-consolidation losses on exit: part-year rule

When this section applies

- (1) This section applies if a company that is a member of a consolidated group has a loss balance to which section ID 2 applies when the company leaves the group in the tax year.

Amount of loss balance

- (2) In addition to the amount available under section IP 3(3) but subject to the limit in section ID 3(2), the amount of the loss balance that is carried forward must be no more than the consolidated group's net income for the relevant part of the tax year.

Financial statements

- (3) The consolidated group must provide the Commissioner with an adequate and detailed financial statement that discloses the amount that would be the group's net income for the relevant part of the tax year, determined on a fair and reasonable basis of attribution. The statement must be filed with the consolidated group's return of income for the tax year.

Continuity requirements

- (4) For the purposes of this section, the company must meet the threshold level in section IC 2(1) for the relevant part of the tax year.

Relationship with section ID 2

- (5) This section overrides section ID 2.

Defined in this Act: amount, Commissioner, company, consolidated group, financial statement, loss balance, tax loss, tax year

Origin	(1)	IG 6(8)(a), (b)
	(2)	IG 6(8)
	(3)	IG 6(8)(d)
	(4)	IG 6(8)(c)
	(5)	new

Subpart IE — Treatment of tax losses on amalgamation of companies

IE 1 When this subpart applies

This subpart applies if, in an amalgamation,—

- (a) either the amalgamating company or the amalgamated company has, before the date of the amalgamation, a tax loss component or ring-fenced amount:
- (b) a company in a group of companies has a tax loss for the tax year of amalgamation that may be made available to the amalgamated company to subtract from its net income for the tax year.

Defined in this Act: amalgamated company, amalgamating company, amalgamation, attributed CFC net loss, company, FIF net loss, group of companies, net income, ring-fenced amount, tax loss, tax loss component, tax year

Origin IF 4, IF 5, IF 6

IE 2 Treatment of tax losses by amalgamating company

When this section applies

- (1) This section applies if an amalgamating company that meets the requirements of section IA 5 ends its existence on a qualifying amalgamation, and has a tax loss for a tax year which—
 - (a) has not, before the date of amalgamation, been used by the company; and
 - (b) could be made available and subtracted from the amalgamated company's net income for the part of the tax year that ends with the date of amalgamation.

Attributing loss to amalgamated company

- (2) If the amalgamated company meets the requirements set out in section IE 5, the tax loss is attributed to the amalgamated company which may, after the date of amalgamation, subtract the amount of the tax loss from its net income for the tax year, or make it available to another company to subtract from its net income for the tax year.

Other amalgamating companies

- (3) In subsection (1)(b), the amalgamated company includes a company that has amalgamated with the amalgamating company before or during the tax year in which the amount is used. The tax year referred to in that subsection means the tax year of the relevant company.

New company

- (4) Subsection (1)(b) does not apply if the amalgamated company is incorporated only on the amalgamation.

Defined in this Act: amalgamated company, amalgamating company, amalgamation, amount, company, net income, qualifying amalgamation, tax loss, tax year

Origin	(1)	IF 4(a) – (c)
	(2)	IF 4
	(3)	IF 4(d)
	(4)	IF 4(d)

IE 3 Treatment of tax losses by amalgamated company

When this section applies

- (1) This section applies if an amalgamated company that meets the requirements of section IA 5 has a loss balance carried forward to the tax year in which the amalgamation takes place, and the loss balance—
- (a) has not, before the date of amalgamation, been used by the company; and
 - (b) could be made available under and subtracted by each amalgamating company from the net income attributable to the part of the relevant company's tax year that ends with the date of amalgamation.

Carrying loss balance forward

- (2) If the requirements of sections IA 5, IC 2, and IC 5 are met, the amalgamated company's loss balance is carried forward to the tax year in which the amalgamation takes place or to a later tax year.

Attributed CFC net losses and FIF net losses

- (3) For the purposes of subsection (1)(b), if the tax loss is an attributed CFC net loss or a FIF net loss, it may be made available only to a wholly-owned group of companies.

Link with subpart IA

- (4) This section overrides sections IA 3 and IA 4.

Defined in this Act: amalgamated company, amalgamating company, amalgamation, attributed CFC net loss, FIF net loss, loss balance, net income, tax loss, tax year, wholly-owned group of companies

Origin	(1)	IF 6(a), (b), (d)
	(2)	IF 6(c)
	(3)	IF 6, IG 2, IG 4, IG 5
	(4)	new

IE 4 Group companies' treatment of tax losses on amalgamation

When this section applies

- (1) This section applies on an amalgamation if a company in a group of companies—
- (a) meets the requirements of section IA 5; and
 - (b) has a tax loss for part of a tax year before the date of amalgamation; and
 - (c) may use the tax loss under sections IC 5, IQ 4, or IQ 5.

Use by amalgamated company

- (2) The amount of the tax loss may be subtracted from the net income of the amalgamated company for the tax year only if both the company and the amalgamated company (and each company that before or during the amalgamation amalgamated with the amalgamated company) meet the requirements in subparts IA, IC, and IQ that allow companies to group tax losses.

Defined in this Act: amalgamated company, amalgamation, amount, company, group of companies, net income, tax loss

Origin (1) IG 9
 (2) IG 9

IE 5 Applying the continuity provisions when companies amalgamate

The provisions of this Act apply as if the amalgamated company did not exist separately before amalgamation, and was instead the amalgamating company with the same holders of shares and options over shares, each with the same number and class of shares and options over shares, as they held in the amalgamating company, to determine whether a tax loss or loss balance,—

- (a) may be used or is carried forward under sections IA 3 and IA 4:
- (b) may be subtracted from the net income of another company under sections IC 5, IQ 4, or IQ 5:
- (c) in the case of a group company, may be subtracted from the net income of the amalgamated company under sections IC 5, IQ 4, and IQ 5.

Defined in this Act: amalgamated company, amalgamating company, amalgamation, option, share, this Act

Origin IF 4, IG 8, IG 9

Subpart IP — Satisfaction of requirements for part-years

Introductory provisions

IP 1 When this subpart applies

Breaches of continuity and commonality

- (1) This subpart applies if either or both the following breaches occur:
- (b) when commonality of ownership required by section IC 5(1)(a) is lost during a tax year (called a **commonality breach**):
 - (a) when continuity of ownership required by section IA 5(1)(c) is broken during a tax year (called a **continuity breach**).

Relationship with subparts IA and IC: part-year calculations

- (2) Generally, the effect of this subpart is that the general rules for the treatment of tax losses in subparts IA and IC apply, as modified or overridden by the provisions of this subpart, to—
- (a) a part-year tax loss as if it were a tax loss for a tax year:
 - (b) part-year net income as if it were net income for a tax year:
 - (c) the common span as if the period of time were a tax year.

Defined in this Act: common span, net income, tax loss, tax year

Origin: (1) IG 2(4)
(2) IG 2(4)(e), (f), IG 2(5)(e), (f)

IP 2 Group companies' common span

Common span

- (1) In this subpart, the corresponding parts of company A's income year and company B's income year when the requirements of commonality of ownership under section IC 5(1)(a) are met is called the **common span**.

Common span when balance dates differ

- (2) If the income years of company A and company B do not end on the same date, the common span is that part of company B's income year or income years in which the requirements of commonality are met.

Calculating amount of group companies' tax losses

- (3) For the purposes of this subpart and the grouping of tax losses, the amount of a tax loss component is arrived at after taking into account any amount of the tax loss component subtracted from the net income of any group company.

Extension under section IC 10

- (4) For the purposes of this subpart, if common ownership is affected because the last day of each company's income year differs, section IC 10(2)(b) applies to extend the relevant period.

Defined in this Act: amount, balance date, common span, company, income year, net income, tax loss

Origin:	(1)	IG 2(4)(d), (5)(c)
	(2)	IG 2(4)(d), (5)(c)
	(3)	IG 2(4)(c), (5) (b)
	(4)	IG 2(2)(e)

Tax loss components carried forward

IP 3 Continuity breach: tax loss components of companies carried forward

When this section applies

- (1) This section applies for the purposes of section IA 4 if the requirements for continuity of ownership in section IA 5 that enable a tax loss component included in a company's loss balance to be carried forward to, or from, a tax year are breached.

Tax loss components for earlier years

- (2) Despite the breach, a tax loss component arising in an earlier income year is carried forward to a tax year (**year A**) to the extent to which—
- (a) the requirements for continuity of ownership would be met if the continuity period included only part of the income year of the company that corresponds to year A; and
 - (b) the company has net income for part of the corresponding income year; and
 - (c) the company provides the Commissioner with an adequate and detailed financial statement under section IP 6 calculating the amount of the company's net income for the relevant part of the corresponding income year.

Limit on tax loss component carried forward to year A

- (3) The total tax loss components carried forward under subsection (2) must be no more than the amount calculated under subsection (2)(b) and (c), although the amount may be increased if section IP 5 applies.

Tax loss components of year of breach

- (4) Despite the breach, a tax loss component is carried forward to the tax year (**year B**) from year A to the extent to which—
- (a) the requirements for continuity of ownership would be met if the continuity period included only part of the income year that corresponds to year A; and
 - (b) the company provides the Commissioner with an adequate and detailed financial statement under section IP 6 calculating the amount of the company's net loss for the part of year A.

Limit on tax loss component carried forward to year B

- (5) The amount of the tax loss component carried forward under subsection (4) must be the least of—
- (a) the part-year net loss calculated under subsection (4)(b):
 - (b) if the company has net income for year A, zero:
 - (c) if the company has a net loss for year A, the company's net loss for year A.

Defined in this Act: amount, Commissioner, company, continuity period, corresponding income year, financial statement, income year, loss balance, net income, net loss, tax loss, tax loss component, tax year

Origin:	(1)	IF 1(3)
	(2)	IF 1(3)
	(3)	IF 1(3)
	(4)	IF 1(2)
	(5)	IF 1(2)

Grouping part-year tax losses

IP 4 Breach in income year in which tax loss component arises

When this section applies

- (1) This section applies for the purposes of sections IA 6 and IC 5 when a company (**company A**) has a tax loss component arising in an income year in which either the continuity or commonality requirements for grouping tax losses are breached.

Modified requirements

- (2) The tax loss component is included in a tax loss that company A makes available under section IA 3(2) to another group company (**company B**) only to the extent to which following requirements, which modify those set out in section IC 5, are met:
- (a) the tax loss component arises in the common span; and
 - (b) continuity of ownership in company A under section IC 2(1) applies in the common span; and
 - (c) company A and company B provide the Commissioner with adequate and detailed financial statements under section IP 6; and
 - (d) company A notifies the Commissioner of the treatment of the tax loss under section IP 7.

Amount used

- (3) For the purposes of determining the amount of tax loss that company A and company B may use, sections IC 5 and IC 8 apply as if the common span were a corresponding income year.

Defined in this Act: amount, Commissioner, common span, company, corresponding income year, financial statement, net income, notify, tax loss, tax year

Origin:	(1)	IG 2(4)
	(2)	IG 2(4)(c) – (e)
	(3)	IG 2(2)(f)

IP 5 Breach in tax year in which loss balance is grouped*When this section applies*

- (1) This section applies for the purposes of sections IA 6 and IC 5 when a company (**company A**) has a loss balance carried forward to a tax year in which either the continuity or commonality requirements for grouping tax losses are breached.

Modified requirements

- (2) The loss balance is included in a tax loss that company A makes available under section IA 3(2) to another group company (**company B**) only to the extent to which the following requirements, which modify those set out in section IC 5, are met:
- (a) a tax loss component included in the loss balance arises in the common span; and
 - (b) continuity of ownership in company A under section IC 2(1) applies in the common span; and
 - (c) company B provides the Commissioner with adequate and detailed financial statements under section IP 6; and

- (d) company A notifies the Commissioner of the treatment of the tax loss under section IP 7.

Amount used

- (3) For the purposes of determining the amount of the loss balance that company A and company B may use, sections IC 5 and IC 8 apply as if the common span were a tax year.

Defined in this Act: Commissioner, common span, company, financial statement, loss balance, net income, notify, tax loss, tax year

Origin:	(1)	IG 2(5)
	(2)	IG 2(2)(b) – (e)
	(3)	IG 2(2)(f)

Statements and notices

IP 6 Financial statements required

Financial statements required from company: section IP 3

- (1) A company must provide the Commissioner with an adequate and detailed financial statement under section IP 3(2)(c) and (4)(b) relating to the continuity period.

Financial statements required from company A: section IP 4

- (2) Company A must provide the Commissioner with an adequate and detailed financial statement under section IP 4(2)(c) relating to the common span, calculating the amount of the tax loss component, determined on a fair and reasonable basis of attribution.

Financial statements required from company B: sections IP 4 and 5

- (3) Company B must provide the Commissioner with an adequate and detailed financial statement under sections IP 4(2)(c) and IP 5(2)(c) relating to the common span, calculating the amount of the net income in the common span, determined on a fair and reasonable basis of attribution.

Different balance dates

- (4) For the purposes of subsections (2) and (3), if the balance dates of company A and company B differ, the common span is taken as the period of time in the tax year in which the tax loss or loss balance is used—
 - (a) that includes (but is not limited to) all or part of the tax year in which company A is in the same group of companies as company B; and

- (b) in which company A and company B are at all times members of the same group of companies; and
- (c) in which company A meets the continuity requirements in section IC 2(1).

Applying provisions to part-year period

- (5) In preparing the financial statements, the company must, to the extent possible, apply the provisions of this Act to the common span as if it were a tax year.

Defined in this Act: Commissioner, common span, company, extended return date, financial statement, group of companies, loss balance, net income, notify, tax loss, tax year, this Act

Origin:	(1)	IF 1(2), IF 1(3)
	(2)	IG 2(4)(c), IG 2(5)(d)
	(3)	IG 2(4)(d), IG 2(5)(c)
	(4)	IG 2(4)(d), IG 2(5)(c)
	(5)	IG 2(10)

IP 7 Notices required

Notifying the Commissioner

- (1) In sections IP 4(2)(d) and IP 5(2)(d), company A must notify the Commissioner by its extended return date that it intends to treat a tax loss or loss balance in the way described in the relevant section.

Extended return date

- (2) In subsection (1), **extended return date** has the meaning set out in section IC 9, and includes a later date allowed by the Commissioner.

Defined in this Act: Commissioner, company, extended return date, loss balance, notify, tax loss

Origin:	(1)	IG 2(4), IG 2(5)
	(2)	IG 2(4), IG 2(5)

Subpart IQ — Attributed CFC net losses and FIF net losses

IQ 1 General treatment of attributed CFC net losses and FIF net losses

General statement

- (1) The treatment of amounts of attributed CFC net loss and FIF net loss is dealt with under subpart IA, and in section 92 of the Tax Administration Act 1994, as modified by this subpart.

When net loss arises

- (2) An attributed CFC net loss or a FIF net loss arises on the last day of the tax year in which the loss is attributed.

Treatment of net losses by consolidated groups

- (3) If a consolidated group has an amount of attributed CFC net loss or FIF net loss, the amount cannot be used by a company that is a member of the consolidated group.

Treatment of net losses on amalgamation

- (4) The treatment of tax losses, including amounts of attributed CFC net loss and FIF net loss, on the amalgamation of companies is dealt with under subpart IE, and the provisions of this subpart do not apply.

Defined in this Act: amalgamation, attributed CFC net loss, company, consolidated group, FIF net loss, tax loss, tax year

Origin:	(1)	IE 3(1), IE 4(1)
	(2)	IF 3, IG 4(1), IG 5(1)
	(3)	IG 7(1)
	(4)	IF 6

IQ 2 Ring-fencing cap on attributed CFC net losses

Limit on amount used

- (1) If a person's attributed CFC net loss is carried forward to a tax year, the maximum amount that they may subtract from their net income for the tax year must be no more than the total of—
- (a) all attributed CFC income that they derive in the tax year in relation to a CFC resident in the country in which the loss arose; and
 - (b) all FIF income calculated under the branch equivalent method that they derive in the tax year in relation to a FIF resident in the country in which the loss arose.

Income only once

- (2) In subsection (1), the person may take into account an amount of attributed CFC income or FIF income only to the extent to which they have not accounted for it in—
- (a) calculating a deduction under sections DN 4 or DN 9 (which relate to ring-fencing caps); or
 - (b) establishing their entitlement to make the tax loss available under sections IC 5 or IQ 4; or
 - (c) applying subsection (1) in relation to another attributed CFC net loss.

When net income insufficient

- (3) If the person cannot use some of the tax loss in the tax year because the net income is insufficient, the surplus is no longer available to them as an attributed CFC net loss, but becomes a tax loss component under section IA 2(4).

Defined in this Act: attributed CFC income, attributed CFC net loss, branch equivalent method, CFC, deduction, FIF, FIF income, net income, net loss, resident, tax loss, tax year

Origin:	(1)	IE 3(2)
	(2)	IE 3(3)
	(3)	IE 3(5)

IQ 3 Ring-fencing cap on FIF net losses

Limit on amount used: branch equivalent method

- (1) If a person's FIF net loss is carried forward to a tax year, and they have calculated the amount of FIF net loss under the branch equivalent method, the maximum amount that they may subtract from their net income must be no more than the total FIF income that they derive in the tax year from a FIF resident in the country in which the loss arose.

Limit on amount used: not branch equivalent method

- (2) If a person's FIF net loss is carried forward to a tax year, and they have calculated the amount of FIF net loss under a method other than the branch equivalent method, the maximum amount that they may subtract from their net income must be no more than the total FIF income that they derive in the tax year. For this purpose, the net income must also be calculated under a method other than the branch equivalent method.

Income only once

- (3) For the purposes of subsection (2), the person may take into account an amount of FIF income only to the extent to which they have not accounted for it in—
- (a) calculating a deduction under section DN 8 (Ring-fencing cap on deduction: not branch equivalent method); or
 - (b) establishing their entitlement to make the tax loss available under sections IC 5 and IQ 5; or
 - (c) applying subsection (1) in relation to another FIF net loss.

When net income insufficient

- (4) If the person cannot use some of the amount referred to in subsections (1) or (2) in the tax year because the net income is insufficient, the surplus is no longer available to them as a FIF net loss, but becomes a tax loss component under section IA 2(4).

Relationship with section CQ 5

- (5) Despite this section, if the person's FIF net loss is carried forward to a tax year and section CQ 5(1)(d) (When FIF income arises) applies, they may subtract the amount from their net income for the tax year, but only to the extent to which the amount is no more than their assessable income for the tax year from interests that would be interests in a FIF in the tax year but for that section.

Defined in this Act: amount, assessable income, branch equivalent method, deduction, FIF, FIF income, FIF net loss, net income, net loss, resident, tax loss, tax year

Origin:	(1)	IE 4(2)
	(2)	IE 4(4)
	(3)	IE 4(3)
	(4)	IE 4(6)
	(5)	IE 4(5)

IQ 4 Group companies using attributed CFC net losses

What this section does

- (1) This section supplements the general rules relating to the grouping of net losses when—
- (a) a company in a group of companies (**company A**) has an attributed CFC net loss for a tax year or has an amount of attributed CFC net loss carried forward under sections IA 4, IA 5, and IA 7; and
 - (b) company A is not able to use the amount under section IC 5.

General loss rules modified

- (2) If the group of companies is a wholly-owned group of companies, subpart IC and section GC 4 (Arrangement to defeat application of net loss offset provisions) apply to the attributed CFC net loss.

Ring-fencing cap rule modified

- (3) Section IQ 2 applies to the attributed CFC net loss, but is supplemented as follows:
- (a) the amount of the tax loss that company A may make available to another group company (**company B**) in the tax year to subtract from their net income for the tax year must be no more than the total of—
 - (i) the amount of attributed CFC income that company B derives in the tax year from a CFC resident in the country in which the loss arose; and
 - (ii) the amount of FIF income calculated under the branch equivalent method that company B derives in the tax year from a FIF resident in the country in which the loss arose:
 - (b) the amount of company B's attributed CFC income or FIF income may be taken into account only to the extent to which it has not been accounted for—
 - (i) in calculating a deduction of company B under sections DN 4 or DN 9 (which relate to ring-fencing caps); or
 - (ii) in establishing company B's entitlement to use an attributed CFC net loss under sections IC 5 or IQ 2:
 - (c) if company A cannot use some of the amount referred to in paragraph (a) in the tax year because company B's net income is insufficient, the surplus is no longer available to company A as an attributed CFC net loss, but becomes, for company B, tax loss component under section IA 2(4).

Defined in this Act: amount, attributed CFC income, attributed CFC net loss, CFC, company, deduction, FIF, FIF income, group of companies, net income, net loss, resident, tax loss, tax year, wholly-owned group of companies

Origin:	(1)	IG 4(1)
	(2)	IG 4(1)
	(3)	IG 4(2) – (4)

IQ 5 Group companies using FIF net losses

What this section does

- (1) This section supplements the rules relating to grouping of tax losses when—
- (a) a company in a group of companies (**company A**) has a FIF net loss for a tax year, or has an amount of FIF net loss carried forward to a tax year; and
 - (b) company A is not able to use the amount under sections IC 5.

General loss rules modified

- (2) If the group of companies is a wholly-owned group of companies, subpart IC and section GC 4 (Arrangement to defeat application of net loss offset provisions) apply to the FIF net loss.

Ring-fencing cap rule modified

- (3) Section IQ 3 applies to the FIF net loss, but is modified as follows:
- (a) if the FIF net loss is calculated under the branch equivalent method, the maximum amount that may be made available in the tax year must be no more than the total FIF income that another group company derived in the tax year from a FIF resident in the country in which the loss arose:
 - (b) if the FIF net loss is calculated under a method other than the branch equivalent method, the maximum amount that company A may make available to another group company (**company B**) in the tax year to subtract from its net income for the tax year must be no more than the amount that company B would be able to use under section IQ 3(1) and (3) if the amount of FIF net loss were, for company B, a loss balance carried forward:
 - (c) for the purposes of paragraph (b), an amount of FIF income may be taken into account only to the extent to which it has not been accounted for in—
 - (i) calculating company A's deduction of under section DN 8 (Ring-fencing cap on deduction: not branch equivalent method) ; or
 - (ii) establishing company A's entitlement to use the amount under section IC 5 or IQ 3; or
 - (iii) applying paragraph (a) in relation to another FIF net loss:
 - (d) if company A cannot use some of the amount referred to in paragraph (a) or (b) in the tax year because company B's net income is insufficient, the surplus is no longer available to company A as a FIF net loss, but becomes, for company B, a tax loss component under section IA 2(4).

Defined in this Act: amount, branch equivalent method, company, deduction, FIF, FIF income, FIF net loss, group of companies, loss balance, net income, net loss, resident, tax year, wholly-owned group of companies

Origin: (1) IG 5(1)

- (2) IG 5(1)
- (3) IG 5(2) – (4)

IQ 6 Pre-consolidation losses: general treatment

When this section applies

- (1) This section applies if a company that is a member of a consolidated group has under section ID 2 an attributed CFC net loss or FIF net loss carried forward to a tax year.

First use

- (2) The first use of the amount must be by the company under subsection (3) or (4) in making the amount available to the consolidated group to subtract from its net income, so far as it extends, for the tax year.

CFC net loss

- (3) If the amount is an attributed CFC net loss, it may be used only to the extent to which it is no more than the attributed CFC income that the consolidated group derives in the tax year from a CFC resident in the country in which the loss arose.

FIF net loss

- (4) If the amount is a FIF net loss, it may be used only to the extent to which it is no more than the FIF income that the consolidated group derives in the tax year from a FIF resident in the country in which the loss arose.

Second use

- (5) If, after applying subsection (2), some of the amount remains, the company may—
 - (a) subtract the remaining amount from its net income for the tax year; or
 - (b) make the remaining amount available to another consolidated group to subtract from its net income for the tax year under section IQ 4 or IQ 5; or
 - (c) make the remaining amount available under section IC 5.

Defined in this Act: amount, attributed CFC income, attributed CFC net loss, CFC, company, consolidated group, FIF, FIF income, FIF net loss, net income, resident, tax year

- Origin:
- (1) IG 7(2)
 - (2) IG 7(2)(a), (b)
 - (3) IG 7(2)(c)
 - (4) IG 7(2)(d)
 - (5) IG 7(2)(e) – (g)

IQ 7 When group membership lacking in loss period

When this section applies

- (1) This section applies if—
- (a) a company's ring-fenced tax loss consisting of either an attributed CFC net loss or FIF net loss, or both, is carried forward to a tax year and must be used under section ID 2(2); and
 - (b) the company was not a member of the consolidated group of companies in the earlier tax year; and
 - (c) the company and 1 or more of the companies in the group do not meet the requirements for common ownership under section IC 5(1)(a) for the loss period.

Limit on amount

- (2) The amount that may be subtracted from the net income of the consolidated group in the tax year under section ID 2(2) must be no more than the total of—
- (a) the amount of ring-fenced tax loss that the company could use to reduce its net income in the tax year under sections IA 3 to IA 5, and section IQ 2 or IQ 3 as applicable, if it were not in the tax year a member of a consolidated group; and
 - (b) the amount of ring-fenced tax loss that the company could group with other companies in the group under section IC 5 and section IQ 4 or IQ 5, as applicable, determining—
 - (i) the net income for each of the companies using the group's calculation of each company's net income; and
 - (ii) the maximum amount of tax loss to be made available, ignoring the consolidation of the companies and presuming all steps required under those sections were taken in order for them to apply.

Relationship with section HB 2

- (3) In subsection (2), net income must be calculated in accordance with section HB 2(1) (Taxable income to be calculated generally as if group were single company).

Loss period

- (4) In this section, the **loss period** means the tax year in which the tax loss component arose and any tax years falling between that tax year and the tax year in which the tax loss component is subtracted from net income.

Defined in this Act: attributed CFC net loss, company, consolidated group, FIF net loss, loss period, net income, ring-fenced tax loss, tax loss, tax loss component, tax year, taxable income

Origin:	(1)	IG 7(4)(a),(b)
	(2)	IG 7(4)(c),(d)
	(3)	IG 7(4)(c),(d)
	(4)	IG 7(4)(b)

IQ 8 When group membership lacking in tax year of use

When this section applies

- (1) This section applies if a company joins a consolidated group in a tax year with a ring-fenced tax loss consisting of an attributed CFC net loss or FIF net loss, or both, carried forward to the tax year, which must be used in the tax year under section ID 2(2).

Limit on amount

- (2) The amount that may be subtracted from the net income of the consolidated group for the tax year under section ID 2(2) is the lesser of—
- (a) the amount of ring-fenced tax loss that the company could subtract from—
- (i) the amount that would be the company's net income for the part of the tax year in which it was not a member of a consolidated group; and
 - (ii) the net income for the tax year of another consolidated group of which the company was a member before joining the present group; and
- (b) the amount that would be the group's net income for the part of the tax year in which the company was a member of the consolidated group, established by giving the Commissioner, at the time of providing the group's return of income for the tax year, an adequate and detailed financial statement that—
- (i) relates to the part of the tax year when the company was a member of the group; and
 - (ii) discloses the amount that would be the company's net income for the part of the tax year in which the company was a member of the group, determined on a fair and reasonable basis of attribution.

Defined in this Act: attributed CFC net loss, Commissioner, company, consolidated group, FIF net loss, financial statement, net income, return of income, ring-fenced tax loss, tax loss, tax year

Origin:	(1)	IG 7(5)(a), (b)
	(2)	IG 7(5)(c), (d)

IQ 9 When attributed CFC net loss becomes FIF net loss

When this section applies

- (1) This section applies if, in a tax year, a person has an attributed CFC net loss that, under section 38 of the Income Tax Amendment Act (No 2) 1993, becomes a FIF net loss.

Treatment of net loss

- (2) The attributed CFC net loss is treated as a FIF net loss of the person with effect from the tax year, as if the CFC were the FIF.

Calculation method

- (3) For the purposes of subsection (2) and the calculation of the amount of the loss, the branch equivalent method is not used unless the person calculates their FIF income or net loss under the branch equivalent method in relation to the interest on the date of the transition from an attributed CFC net loss to a FIF net loss.

Defined in this Act: attributed CFC net loss, branch equivalent method, CFC, CFC net loss, FIF income, FIF net loss, tax year

Origin: (1) IE 3(4)
(2) IE 3(4)
(3) IE 3(4)

Subpart IS —Mining companies' tax losses

IS 1 General treatment of mining companies' tax losses

Groups of companies

- (1) In a tax year in which a company is a mining company, section IC 5 does not apply, and the company is not included in a group of companies for the purposes of the section.

Consolidated groups

- (2) A tax loss of a mining company that is a member of a consolidated group is dealt with under this subpart and not subpart ID.

Defined in this Act: company, group of companies, mining company, tax year

Origin: (1) IH 4(2)
(2) IG 6(2)

IS 2 Treatment of tax losses resulting from certain expenditure

When this section applies

- (1) This section applies if a mining company, or a resident mining operator, or a non-resident mining operator—
- (a) has a tax loss for a tax year as a result of incurring mining exploration expenditure or mining development expenditure in a licence area; and
 - (b) has used some of the amount of tax loss in the tax year, and has a loss balance carried forward to a later tax year.

Using loss balance

- (2) The company may subtract the amount of the loss balance from its net income for the later tax year, even though the required continuity of ownership under section IA 5 is broken or is treated as absent under section GC 2 (Arrangements to defeat application of net loss carry forward provisions), but only to the extent set out in subsection (3).

Limit on amount subtracted

- (3) The amount subtracted under subsection (2) must be no more than the amount that would be the mining company's net income if its only assessable income for the later tax year were from the licence area.

Carrying amounts forward

- (4) If the company cannot use all the loss balance in the later tax year, the amount is carried forward to later tax years and subsection (2) applies to the remaining balance.

Meaning of licence area

- (5) In this section, a **licence area** means an area of a mining licence or a mining privilege, and may include more than 1 area.

Defined in this Act: amount, assessable income, licence area, loss balance, mining company, mining development expenditure, mining exploration expenditure, mining licence, net income, non-resident mining operator, resident mining operator, tax loss, tax year

Origin:	(1)	IH 1(1)
	(2)	IH 1(1)(a), (b)
	(3)	IH 1(1)(b)
	(4)	IH 1(1)
	(5)	IH 1(1)(d)

IS 3 Holding companies' tax losses

When this section applies

- (1) This section applies in a tax year if—
- (a) a mining company has net income for the tax year after having subtracted an amount of any loss balance that is carried forward; and
 - (b) the company and a holding company, which is not a mining company, would be included in a wholly-owned group of companies but for section IS 1(1); and
 - (c) the holding company has a tax loss for the tax year that it cannot make available under section IC 5 to another company in the wholly-owned group.

Using tax loss

- (2) The mining company may subtract some or all of the amount of the holding company's tax loss from its net income, so far as it extends, for the tax year.

Determining amount of holding company's tax loss

- (3) The amount of the holding company's tax loss is found without taking into account any deduction that the holding company may have under section DU 12 (Amount written off by holding company) for amounts written off a loan from the holding company to the mining company.

Relationship with section IS 1

- (4) This section overrides section IS 1(1).

Defined in this Act: amount, deduction, holding company, loan, loss balance, mining company, net income, tax loss, tax year, wholly-owned group of companies

Origin:	(1)	IH 4(3)(a) – (c)
	(2)	IH 4(3)
	(3)	IH 4(3)(c)
	(4)	new

IS 4 Adjustments in certain circumstances

When this section applies

- (1) This section applies if, under section IS 3, the amount of a holding company's tax loss for a tax year is subtracted from a mining company's net income for the tax year instead of being carried forward to a later tax year.

Adjustment by Commissioner

- (2) If the holding company applies for an adjustment and the Commissioner agrees, the Commissioner may adjust the returns of income of the mining company and the holding company to reflect what is fair in the circumstances. This subsection applies in the tax year in which the holding company is allowed the deduction under section DU 12 (Amount written off by holding company), and to any of the 8 tax years following that tax year.

Time for applying to Commissioner

- (3) The holding company must apply within 8 tax years after the end of the tax year in which the holding company is allowed the deduction under section DU 12 or, despite the time bar, within an extended period if the Commissioner agrees.

Defined in this Act: amount, Commissioner, deduction, holding company, mining company, net income, return of income, tax loss

Origin:	(1)	IH 4(3) proviso
	(2)	IH 4(3) proviso
	(3)	IH 4(3) proviso

IS 5 Petroleum miners' net losses

When this section applies

- (1) This section applies in a tax year in which a petroleum miner with a net loss for the tax year—
 - (a) relinquishes a petroleum permit for which they have a deduction under section DT 7 (Exploratory well expenditure); or
 - (b) incurs expenditure on operations for which they have a deduction under section DT 16 (Removal or restoration operations).

Net loss reduced

- (2) The petroleum miner's net loss is reduced by the amount of the deduction but only to the extent of the amount of the net loss. The petroleum miner may then have a deduction for the amount of the reduction in an earlier tax year allocated under section EJ 12B (Spreading deduction backwards).

Petroleum mining activities outside New Zealand

- (3) This section applies to a petroleum miner who undertakes petroleum mining activities that are—
 - (a) outside New Zealand and undertaken through a branch or a CFC; and
 - (b) substantially the same as the petroleum mining activities governed by this Act.

Defined in this Act: CFC, deduction, New Zealand, petroleum miner, petroleum permit, removal or restoration operations, tax year, this Act, time bar

Origin:	(1)	IH 3(1)
	(2)	IH 3(1)
	(3)	IH 3(1)

EJ 12B Spreading deduction backwards

When this section applies

- (1) This section applies when a petroleum miner has a deduction whose amount has been reduced under section IS 5 (Petroleum miners' net losses).

Spreading backwards

- (2) The petroleum miner may allocate the amount of the deduction to the tax year before that in which the net loss arises, or allocate parts of it to earlier tax years.

Amending returns

- (3) The petroleum miner may amend their returns of income for the relevant tax years despite the operation of the time bar.

Defined in this Act: amount, deduction, petroleum miner, return of income, tax year, time bar

Origin: (1) IH 3(1)
(2) IH 3(1)
(3) IH 3(1)

IS 6 When company stops being mining company

For the purposes of sections IS 1 to IS 5, if a mining company whose loss balance is carried forward to a tax year, stops being a mining company at or before the end of the tax year, the company is nevertheless treated for the tax year as if it had continued as a mining company.

Defined in this Act: loss balance, mining company, net income, resident mining operator

Origin: IH 1, IH 4(1)(e)

Subpart IT —Life insurers' net losses

IT 1 Life insurers' policyholder net losses

Amount available for use

- (1) A life insurer may use a tax loss in calculating their policyholder base income tax liability, but only to the extent to which the amount of the tax loss is no more than their policyholder net loss. Section IA 3(4) applies to any surplus amount.

Use of policyholder net loss

- (2) A life insurer may use a policyholder net loss only for the purpose of calculating their policyholder base income tax liability.

Transfer of business

- (3) If a life insurer transfers their life insurance business to another company in the way described in section EY 44(1) (which relates to the policyholder income formula), the life insurer may choose to have their policyholder net loss for the tax year of the transfer treated as the other company's policyholder net loss instead of their own. This subsection applies to both a policyholder net loss calculated for a tax year and a loss balance carried forward to a tax year.

Notifying Commissioner

- (4) If the life insurer chooses to have the policyholder net loss treated as the other company's net loss, they must notify the Commissioner of their election.

Defined in this Act: amount, business, company, life insurance, life insurer, loss balance, policyholder base income tax liability, policyholder net loss, tax loss, tax year

Origin:	(1)	II 1(3)
	(2)	II 1(4)
	(3)	II 3
	(4)	II 3

Subpart IV — Treatment of certain supplementary dividends

IV 1 Supplementary dividends of section LE 3 holding companies

When this section applies

- (1) This section applies when a section LE 3 holding company derives a supplementary dividend in a tax year.

Limit on amount available

- (2) If the company has a tax loss that is a tax loss component under section IA 2(4), and is entitled to use the amount under sections IA 3, IA 4, IC 5, IS 3 or IS 4, the maximum amount that it may use must be no more than the amount calculated using the formula—

$$\text{net income} \textit{ minus } \frac{\textit{credits plus supplementary dividends}}{\textit{basic tax rate}}$$

Definition of items in formula

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

Net income

- (4) **Net income** is the company's net income for the tax year.

Credits

- (5) **Credits** is the total amount of non-refundable credits and convertible credits that the company has available under Part L (Credits) to use in reducing its income tax liability.

Supplementary dividends

- (6) **Supplementary dividends** is the total amount of supplementary dividends that the company derives in the tax year.

Basic tax rate

- (7) **Basic tax rate** is the relevant basic tax rate applying in the tax year.

Calculating credits under Part L

- (8) Subsection (2) does not affect the calculation under Part L of the non-refundable credits and convertible credits of a section LE 3 holding company.

Defined in this Act: amount, convertible credit, income tax liability, net income, non-refundable credit, section LE 3 holding company, supplementary dividend, tax loss, tax year

Origin: (1) IF 7

- (2) IF 7(1)
- (3) IF 7(1)
- (4) IF 7(1)
- (5) IF 7(1)
- (6) IF 7(1)
- (7) IF 7(1)
- (8) IF 7(2)

Subpart IW — Use of tax losses to pay shortfall penalties

IW 1 Shortfall penalties

When this section applies

- (1) This section applies in a tax year when a person has a shortfall penalty for an income tax liability.

Person choosing to use tax loss

- (2) If the person has a tax loss for the tax year, they may use the amount of the tax loss to pay the penalty, notifying the Commissioner by the due date for payment of the penalty.

Wholly-owned group choosing to use net loss

- (3) If a company in a wholly-owned group has a tax loss for a tax year, the group may use the amount of the tax loss to pay the penalty imposed on the company, notifying the Commissioner by the due date for the payment of the penalty.

Time of use

- (4) The tax loss is used at the time of notification.

Lowest marginal tax rate and availability

- (5) Each dollar of an amount of tax loss that is used under this section—
- (a) is equal to 1 dollar multiplied by the rate of tax or lowest marginal rate of tax that would apply to the person in the return period to which the tax shortfall relates if the person had tax to pay;
 - (b) cannot, from the date the tax loss is used, be used or made available for use, or be carried forward to a later tax year.

Tax year

- (6) In this section, **tax year** includes a part of a tax year that may be taken into account under this Part for continuity or grouping purposes.

Defined in this Act: amount, Commissioner, income tax liability, notify, payment, shortfall penalty, tax loss, tax year, wholly-owned group

Origin:	(1)	IG 10(1)
	(2)	IG 10(1A)
	(3)	IG 10(2)
	(4)	IG 10(3), (4)
	(5)	IG 10(5)
	(6)	IG 10(5)

Subpart IZ — Terminating provisions

IZ 1 Use of specified activity net losses

Limit on amount subtracted

- (1) A person's specified activity net loss that is carried forward to a tax year and subtracted from the person's net income for the tax year must be no more than the sum of the net income for the tax year from the conduct of the same specified activity that gave rise to the net loss and \$10,000. If the person makes the net loss available to another person, the maximum amount that can be subtracted by the other person is \$10,000.

When person conducts 2 or more specified activities

- (2) For the purposes of subsection (1), if the specified activity net loss arises from the conduct of 2 or more specified activities—
- (a) the amount subtracted from the net income for the tax year must be no more than the lesser of—
- (i) the sum of the person's specified activity net income from each of the specified activities; and
- (ii) \$10,000; and
- (b) the person may elect by notice which amounts of net income from the specified activities to subtract from their net income.

When 2 or more persons conduct specified activity

- (3) If 2 or more persons conduct a specified activity, this section applies as if every reference to—
- (a) a person were a reference to each person; and
- (b) an amount of specified activity net loss attributable to the conduct of the specified activity were a reference to the amount of each person's share of the amount of any joint specified activity net loss for the tax year.

Income from personal exertion and hardship

- (4) The Commissioner may determine that the limit under subsection (1) does not apply, and may increase the amount of specified activity net loss that may be subtracted from a person's net income under that subsection if—
- (a) the person is engaged mainly in conducting a specified activity as their livelihood, and they derive income from personal exertion that—
- (i) is derived as a result of the conduct of the specified activity but is not income from the specified activity; and
- (ii) is made for the purpose of enabling the person to meet expenditure essential for the maintenance of either them and their dependants or for the continuation of the specified activity; and
- (b) the person, in the opinion of the Commissioner would suffer hardship from the application of subsections (1) to (3).

Relationship with general loss rules

- (5) Subparts IA, IC, ID, IE, and IP apply to a specified net loss except to the extent to which subsections (1) to (3) override them.

Established activities excluded

- (6) This section does not apply to a specified activity net loss that relates to an established activity.

Related activity

- (7) A specified activity is related to another specified activity, and is treated as part of the other specified activity, if—
- (a) it is usually conducted in association with and is complementary to the other specified activity that an existing farmer is already conducting; or
 - (b) it is conducted on land that an existing farmer has owned or held under lease, licence, or other agreement for 5 years before the activity is started and—
 - (i) the existing farmer is carrying on the other specified activity immediately before the related activity is started; or
 - (ii) the existing farmer elects by notice in their return of income for the tax year in which they start the activity to have the activity treated as related; or
 - (iii) the Commissioner determines the activity is related.

Definition of specified activity

- (8) If this section would have a more favourable effect if the following words in paragraph (c)(ii) of the definition of **specified activity** were omitted, this section applies as if those words were omitted:

“not including crops for which the preparation of the land, the planting and cultivation of the tree or plant, and the harvesting of the crop are accomplished within 12 months”.

Definitions for this section

- (9) In this section,—

established activity, for a person who is an existing farmer, means a specified activity, except an activity within the meaning of paragraph (j) of the definition of **specified activity**, that the person conducted on 11 October 1982, if the Commissioner considers the conduct of the specified activity constituted the livelihood of the person and their principal source of income

income from personal exertion means income of a kind referred to in sections CB 1 and CE 1 (which relate to amounts derived from business and in connection with employment), but does not include income from a business of renting, or lending money, or making financial investments

related activity, for a specified activity conducted by a person in a tax year, means another specified activity that is treated as a related activity under subsection (7), whether or not it is conducted on the same land as the specified activity

specified activity net income means, for a specified activity conducted by a person in a tax year, the result of subtracting from the sum of the income of the person allocated to that activity and the tax year the sum of the deductions of the person allocated to that activity and the tax year, if that result is a positive amount

specified activity net loss means, for a specified activity conducted by a person in a tax year preceding the 1986–87 tax year in the case of an activity referred to in paragraphs (a) to (i) of the definition of **specified activity**, and the 1990–91 tax year in the case of an activity referred to in paragraph (j) of that definition, a loss from that specified activity referred to in section 188A of the Income Tax Act 1976.

Defined in this Act: amount, business, Commissioner, conduct, deduction, established activity, existing farmer, income from personal exertion, land, net income, notice, related activity, return of income, specified activity, specified activity net income, specified activity net loss, tax year

Origin:	(1)	IE 2(6)(a)
	(2)	IE 2(6)(c), (d)
	(3)	IE 2(6)(b)
	(4)	IE 2(7)
	(5)	IE 2(5A)
	(6)	IE 2(4)
	(7)	IE 2(1) – (3)
	(8)	IE 2(5)
	(9)	IE 2(8)

IZ 2 Petroleum mining companies: treatment of payments from shareholders

When this section applies

- (1) This section applies if—
- (a) a net loss arises from the allowance to a petroleum mining company in the 1990–91 tax year, or earlier tax year, of a deduction or further deduction under sections 214B(6), (13)(b), (14)(b), and (18)(c) of the Income Tax Act 1976 (or under section DZ 6(4) or (9)(c) (which relate to partnership interests) of the Income Tax Act 1994); and
 - (b) a payment has been made by a company, which is at the time of the payment a shareholder of the petroleum mining company, to the petroleum mining company an amount that was used for the purposes of petroleum development expenditure of the kind referred to in section DZ 6(4) for which the deduction or further deduction referred to in paragraph (a) is allowed.

Deduction for shareholder company

- (2) The shareholder company is allowed a deduction of an amount that bears to the net loss the same proportion as the payment bears to the petroleum development expenditure. However, the amount of the deduction must be no more than the total amount paid, and no other deduction is allowed in relation to the expenditure.

Election by shareholder company

- (3) For the purposes of subsection (2), the shareholder company must make an election by notice under section 214B(22)(d) of the Income Tax Act 1976 or section DZ 6(12)(d).

Treatment of net loss

- (4) The net loss may not be carried forward and used except to the extent to which the amount of the net loss is more than the sum of all amounts deducted under subsection (2) in the tax year in which the net loss arises.

Further deduction

- (5) Despite subsection (4), if the net loss arises from the allowance of a further deduction under the second proviso to section 214B(6) of the Income Tax Act 1976 or under section DZ 6(4), the net loss is treated as a net loss arising in the tax year which is section DZ 6(4) is referred to as the year of cessation.

When section CV 1 applies

- (6) If the petroleum mining company is not a member of a group of companies under section IC 3 or IC 4, section CV 1(Group companies) does not apply to—
- (a) a net loss referred to in this section except to the extent to which it is more than the sum of all amounts deducted under subsection (2) in the tax year in which the net loss arises; or
 - (b) a net loss for the 1978–79 or earlier tax year.

Defined in this Act: amount, company, deduction, group of companies, net loss, notice, payment, petroleum development expenditure, petroleum mining company, shareholder, tax year

Origin:	(1)	IH 2(1)(a)
	(2)	IH 2(1)(a)
	(3)	IH 2(1)(a)
	(4)	IH 2(1)(b)
	(5)	IH 2(1)(b)
	(6)	IH 2(1)(b)

IZ 3 Petroleum mining companies: use of loss balances*When this section applies*

- (1) This section applies when—

- (a) some or all of a net loss of a petroleum mining company for the 1990–91 tax year or earlier tax year arises from the allowance of—
 - (i) a deduction of an amount of petroleum exploration expenditure that the company incurs on or before 30 September 1990 in exploring or searching for petroleum in an area that is or is subsequently comprised in a mining licence or in 2 or more such areas; or
 - (ii) a deduction of an amount for petroleum development expenditure that the company incurs before 30 September 1990; and
- (b) at the start of a tax year following the tax year in which the net loss arose, a loss balance relating to the licence area or areas remains after taking into account any deductions that the petroleum mining company, or another company, has for the expenditure or any amounts the company has subtracted from its net income for earlier tax years; and
- (c) the petroleum mining company was immediately before the commencement of section 214B of the Income Tax Act 1976 a company to which section 216 of that Act applied.

Using loss balances

- (2) Despite section GC 2 (Arrangements to defeat application of loss carry forward provisions) or IA 5, the loss balance may be subtracted from the petroleum mining company's net income for the tax year referred to in subsection (1)(b) to the extent to which it is no more than the net income of the company for the tax year if the company's only source of assessable income were from the relevant licence area or areas.

Loss balances carried forward

- (3) If, after applying subsection (2), the company has a loss balance remaining, the amount is carried forward to the next tax year and subsection (2) applies in that tax year, and so on.

References in section

- (4) For the purposes of this section,—
 - (a) a reference in this section to expenditure in exploring or searching for petroleum in an area that is or is subsequently comprised in a mining licence is taken as including a reference to expenditure in exploring or searching for petroleum in an area that is outside but continuous or geologically contiguous with the area, being exploring or searching that was included (whether originally or additionally) in the programme of exploring or searching as a consequence of which application was made for the mining licence; and
 - (b) **mining licence** means a mining licence issued under the Petroleum Act 1937.

Relationship with section IZ 2

- (5) Section IZ 2 overrides this section.

Defined in this Act: amount, assessable income, company, deduction, loss balance, mining licence, net income, net loss, petroleum development expenditure, petroleum exploration expenditure, petroleum mining company, tax year

- Origin:
- (1) IH 1(2)(a), (b), (c)
 - (2) IH 1(2)(d)
 - (3) IH 1(2)(d)
 - (4) IH 1(2)(f)
 - (5) IH 1(2)

IZ 4 Tax losses for tax years before 1977–78 tax year

A person's loss balance for a tax year before the 1977–78 tax year is carried forward and may be used under section IA 4 if the person would have been entitled to have the tax loss carried forward for the purpose of assessing income tax under section 137 of the Land and Income Tax Act 1954 if the Income Tax Act 1976, the Income Tax Act 1994, the Income Tax Act 2004, and this Act had not been passed.

Defined in this Act: loss balance, tax loss, tax year, this Act

- Origin: IF 1(5)

IZ 5 Companies' tax losses for tax years before 1991–92 tax year

Loss balances carried forward

- (1) A company's loss balance for a tax year before the 1991–92 tax year may be used under section IA 4 if—
- (a) the company would have been entitled to have some or all of the tax loss under section 188 of the Income Tax Act 1976 carried forward to a later tax year, if that section had continued to apply in the later tax year, as modified by section 188AA of that Act and as if the continuity percentage referred to in section 188(7) of that Act were always 40%; and
 - (b) for the period starting on the first day of the 1992–93 tax year and ending on the last day of the later tax year, a group of persons holds total minimum voting interests in the company that add up to at least 49%.

Market value circumstances and minimum interests

- (2) For the purposes of subsection (1)(b),—
- (a) if during the period a market value circumstance exists for the company, the group of persons must also hold for the period total minimum market value interests in the company that add up to at least 49%:

- (b) a minimum interest of any person in the company in the period is equal to the lowest interest that the person has in the period.

Defined in this Act: company, loss balance, market value circumstance, minimum market value circumstance, minimum voting interest, tax loss, tax year

Origin: (1) IF 1(6)
(2) IF 1(6)

IZ 6 Companies' tax losses for 1990–91 and 1991–92 tax years

When this section applies

- (1) This section applies to a company that has a tax loss for the 1990–91 or 1991–92 tax year and section 188(7B) of the Income Tax Act 1976 would not have applied to prevent some or all of the tax loss being carried forward if regard were had to only part of the relevant tax year.

Carrying forward part-year tax loss

- (2) Section 188(7B) does not apply to prevent the part of the tax loss attributable to the relevant part-period being carried forward under section 188(2).

Financial statements

- (3) For the purposes of subsection (2), the company must provide the Commissioner with an adequate and detailed financial statement relating to the relevant part-period that discloses the amount that would be the tax loss for the relevant part of the tax year, on a fair and reasonable basis of attribution.

Application of subsection (7B)

- (4) In subsection (1), the reference to subsection (7B) applies to the extent to which regard was required to be had to that part of the period starting with 8.00pm New Zealand Standard Time on 30 July 1991 which falls within the tax year in which the tax loss component arises, and without prejudice to the application of that subsection to the extent to which it required regard to be had to later periods.

Defined in this Act: Commissioner, company, financial statement, tax loss, tax year

Origin: (1) IF 2
(2) IF 2
(3) IF 2
(4) IF 2

IZ 7 Grouping tax losses for tax years between 1981–82 and 1991–92

Commonality period

- (1) For the purposes of section IC 5(1)(a), if company A has a tax loss in a tax year between the 1981–82 and 1991–92 tax years, company A and company B may

group the tax loss in a tax year that is later than the tax year in which the tax loss component arises only if company B is in the same group of companies in the earlier tax year.

Residence of company A

- (2) For the purposes of section IC 5(1)(b), if company A's tax loss component arose in a tax year before the 1991–92 tax year, company A and company B may group the tax loss component in a tax year that is later than the tax year first referred to only if company A is, in both the earlier and the later tax year—
- (a) incorporated in New Zealand, or carrying on a business in New Zealand through a fixed establishment in New Zealand; and
 - (b) resident in New Zealand, and not treated under a double tax agreement, and for the purposes of the agreement, as not resident in New Zealand, or liable by the law of another country or territory to income tax in that country or territory through domicile, residence, or place of incorporation.

Defined in this Act: business, company, double tax agreement, fixed establishment, group of companies, New Zealand, tax loss, tax loss component, tax year

- Origin:
- (1) IG 2(2)(c)(iii)
 - (2) IG 2(2)(d)(ii)(B)

Definitions for Part I:

Accounting period	no ref now	
Amalgamated company		
Amalgamating company		
Amalgamation		
Amalgamation provisions	update section refs in FE 1	
Amount		
Annual gross income		
Assessable income		
Assessment		
Attributed CFC income		
Attributed CFC loss		
Attributed CFC net loss		
Attributing interest	no ref now	
Australian imputation credit account company		
Authorised savings institution	no ref - check use in Act	
Available net loss	replace term	
Available subscribed capital	update section refs in CD 32(9)	
Branch equivalent method		
Business		
Calculation method	no ref now	
Common market value interest	update section refs	
Common span	new	
Common voting interest	update section refs	
Commonality period	new	
Company		
Conduct	update section refs	
Consolidated group		
Consolidation rules	update section refs	
Continuity period	new	
Continuity provisions	update section refs	
Controlled foreign company	no ref now	
Convertible credit	no ref now	
Corresponding income year		
Deduction		
Dual resident company	delete	
Established activity	update section refs	
Existing farmer		
Extended return date	new	
Farm ownership requirements	no ref - check use in Act	
FIF		
FIF income		
FIF loss		
FIF net loss		
FIF rules		
Financial statement	update section refs	
Fishing vessel ownership requirements	no ref - check use in Act	
Fixed establishment		
Foreign attributed loss offsets	no ref - check use in Act	
Foreign investment fund	no ref now	

Further income tax		
Group of companies	update section refs	
Group of persons		
Holding company		
Home ownership requirements	no ref - check use in Act	
Imputation credit		
Income from personal exertion	update section refs	
Income interest	no ref now	
International tax rules	update section refs	
Land	update section refs	
Life insurance		
Life insurer		
Loan		
Loss attributing qualifying company		
Loss balance	new	
Market value		
Market value circumstance		
Market value interest		
Minimum market value interest	new	
Minimum voting interest	new	
Mining company		
Mining development expenditure		
Mining exploration expenditure		
Mining licence		
Mining outgoing excess		
Net income		
Net loss	update section refs	
Net mining loss		
New Zealand		
Non-refundable credit		
Non-resident		
Non-resident company		
Non-resident entertainer	xref	
Non-resident mining operator		
Notice		
Notify		
Option		
Partnership loss	update section refs? March bill	
Pay	update section refs?	
Petroleum development expenditure		
Petroleum exploration expenditure		
Petroleum miner		
Petroleum mining company	update section refs	
Petroleum mining operations		
Petroleum permit		
Policyholder base income tax liability		
Policyholder net loss		
Prescribed amount	update section refs?	
Qualifying amalgamation		
Related activity	update section refs	
Removal or restoration operations		
Resident in New Zealand		
Resident mining operator		

Return of income		
Return of the taxpayer's income	no ref - check use in Act	
Ring-fenced tax losses	new	
Schedular income		
Schedular income subject to final withholding		
Schedular income tax liability		
Section LE 3 holding company		
Share		
Share purchase scheme		
Shareholder		
Shortfall penalty	new	
Special account	no ref - check use in Act	
Special farm ownership account	no ref - check use in Act	
Special fishing vessel ownership account	no ref - check use in Act	
Special home ownership account	no ref - check use in Act	
Specified activity		
Specified activity net income	update section refs	
Specified activity net loss	update section refs	
Standard-cost household service		
Supplementary dividend		
Tax loss	new	
Tax loss component	new	
Tax year	amend for part-year refs	
Taxable distribution		
Taxable income		
Time bar		
Voting interest		
Wholly-owned group of companies	update section refs	
Withdrawal certificate	no ref - check use in Act	
Withdrawal income	no ref - check use in Act	
Withdrawal tax	no ref - check use in Act	

Common span is defined in section IP 2(1) for the purposes of subpart IP

Commonality period is defined in section IC 6(1) for the purposes of Part I

Continuity period is defined in section IA 5(4) for the purposes of Part I

Extended return date is defined in section IC 9(3) for the purposes of Part I

Loss balance means the balance of a tax loss that is carried forward to a tax year

Minimum market value interest is defined in sections IA 5(4) and IC 2(3) for the purposes of those sections

Minimum voting interest is defined in sections IA 5(4) and IC 2(3) for the purposes of those sections

Ring-fenced tax loss means an amount referred to in section IA 7

Shortfall penalty has the meaning given to it by section 3(1) of the Tax Administration Act 1994

Tax loss means an amount described in section IA 2(1)

Tax loss component means an amount included in a tax loss for a tax year under section IA 2(3) or (4).