Inland Revenue
Te Tari Taake

NEW LEGISLATION > ACT COMMENTARY

Taxation (Annual Rates for 2025–26, Compliance Simplification, and Remedial Measures) Act 2026

Public Act 2026 No 8

Issued: 12 May 2026

The Act commentary articles provide a detailed explanation of the changes made by the Taxation (Annual Rates for 2025–26, Compliance Simplification, and Remedial Measures) Act 2026.

FIRST PUBLISHED

May 2026 by Policy, Inland Revenue, PO Box 2198, Wellington 6140.

Taxation (Annual Rates for 2025–26, Compliance Simplification, and Remedial Measures) Act 2026 – Act commentary

The document is available at
https://www.taxpolicy.ird.govt.nz/publications/2026/ac-compliance-simplification-act

Inland Revenue can provide an alternate version of this material if requested. Please cite this document's title, website address, or PDF file name when you email a request to policy.webmaster@ird.govt.nz.

Table of Contents

Overview

The Taxation (Annual Rates for 2025–26, Compliance Simplification, and Remedial Measures) Act 2026 was introduced on 26 August 2025. It received its first reading on 11 September 2025, its second reading on 24 March 2026 and its third reading on 26 March 2026. The new Act received the Royal assent on 30 March 2026.

The Act amends:

- Income Tax Act 2007 (ITA)
- Goods and Services Tax Act 1985
- Tax Administration Act 1994 (TAA)
- KiwiSaver Act 2006
- Unclaimed Money Act 1971
- Student Loan Scheme Act 2011
- Child Support Act 1991
- Accident Compensation Act 2001
- Criminal Proceeds (Recovery) Act 2009
- Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023
- Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025
- Taxation (Budget Measures) Act 2025
- Māori Fisheries Amendment Act 2024
- Tax Administration (Financial Statements—Domestic Trusts) Order 2022
- Tax Administration (Correction of Errors in Employment Income Information) Regulations 2019.

Legislative amendments

The Act:

- sets the annual rates of income tax for the 2025–26 tax year
- allows qualifying non-resident visitors to undertake remote work without triggering New Zealand tax consequences for themselves and any affected entities
- adds a new calculation method for calculating foreign investment fund (FIF) income or loss from attributing interests in a FIF
- allows qualifying foreign investments in infrastructure projects and businesses to fully deduct their interest expenses when these arise from third-party limited recourse debt

- resolves problems with the unincorporated body GST rules as they apply to joint ventures
- allows unlisted companies to elect into a regime where the tax liability for employees who receive shares or share options as part of an employee share scheme can generally be deferred until the shares can be more easily valued and sold
- introduces a tax exemption for income derived by an individual from the residential supply of excess electricity
- allows the New Zealand Superannuation Fund, Venture Capital Fund, and associated wholly-owned Crown companies to pay income tax on an annual basis
- extends the period for which tax pooling can be used to pay income tax owing for the 2022–23 and 2023–24 income years until 1 October 2027 if certain conditions are met (as part of a tax pooling debt pilot)
- enables the Commissioner of Inland Revenue to disclose certain information to another government agency for a defined purpose under a Ministerial agreement
- repeals section 17GB of the TAA
- repeals the specific legislative provisions for trust disclosures
- enables Inland Revenue to disclose updated information about a person to the New Zealand Police for proceeds of crime
- makes a temporary $50 per week increase to the rate of the in-work tax credit to help working families with increased fuel costs
- introduces a legislative discretion to allow the Commissioner of Inland Revenue to provide some relief from interest that applies to a student loan when a borrower is overseas based
- introduces a provision to allow specific FamilyBoost policy settings to be adjusted by Order in Council
- streamlines the process of setting use of money interest rates, the fringe benefit tax prescribed rate, and deemed rate of return for foreign investment funds under the TAA and ITA
- updates the list of donee organisations in schedule 32 of the ITA, and
- makes other remedial amendments.

Annual income tax rates for 2025–26

Section BB 1 and schedule 1 of the Income Tax Act 2007

Summary of amendment

Section 3 of the Taxation (Annual Rates for 2025–26, Compliance Simplification, and Remedial Measures) Act 2026 sets the annual income tax rates that apply for the 2025–26 tax year at the rates currently specified in schedule 1 of the Income Tax Act 2007.

Effective date

The amendment is effective for the 2025–26 tax year.

Background

Section BB 1 of the Income Tax Act 2007 requires that the income tax rates be set by an annual taxing Act.

Tax treatment of New Zealand visitors

Tax treatment of visitors to New Zealand

Sections HR 8(2B), YA 1, YD 1(13) and (14), and YD 1B of the Income Tax Act 2007

Schedule 3, clause 5(aa) and (aab) of the Student Loan Scheme Act 2011

Summary of amendments

The amendments deem eligible visitors to New Zealand to be non-resident in New Zealand for up to 275 days in any 18-month period.

All legislative references are to the Income Tax Act 2007 (ITA) unless otherwise stated.

Effective date

The amendments take effect on 1 April 2026, applying to persons who arrive in New Zealand on or after 1 April 2026.

Background

Most non-resident persons visiting New Zealand for a short period of time for tourism-related activities would enter New Zealand, for immigration purposes, on a visitor visa. In January 2025, the Government announced immigration changes to allow visitor visa holders to work remotely while visiting New Zealand.

Most visitors to New Zealand will be non-resident for tax purposes in New Zealand on arrival and will most likely depart New Zealand for their home country or another country within a relatively short period. However, they will become tax resident if they have a permanent place of abode in New Zealand or if they are physically present in New Zealand for more than 183 days in a 12-month period (the 183-day rule). If the 183-day rule applies, they will become a New Zealand resident from the first day of their arrival (section YD 1(3) and (4)).

New Zealand tax residents are taxed on their worldwide income. Visitors may view this situation as having a disproportionate impact given their length of stay in New Zealand, tax residence in another jurisdiction, and that they only receive foreign-sourced income or work for a non-resident while in New Zealand. In some circumstances, such as when the visitor is a dual tax resident in New Zealand and in another jurisdiction for a short overlapping period, the cost of compliance can be disproportionately high.

When the visitor does not benefit from an existing exemption under domestic law or a double tax agreement (DTA), their tax affairs (and potentially those of other affected entities, such as their non-resident employer) can be unduly complicated relative to their connections to New Zealand.

Key features

The amendments provide for a "non-resident visitor" to be a non-resident for New Zealand tax purposes. These include:

- a definition of a "non-resident visitor" (new section YD 1B)
- an exemption from the 183-day rule for non-resident visitors (section YD 1(13)), and
- provision for the treatment of non-resident visitors if they remain in New Zealand for longer than 275 days (section YD 1(13) and (14)) or remain unlawfully in New Zealand (section YD 1(14)).

The amendments take effect from 1 April 2026 and apply to persons who arrive in New Zealand on or after that date. If a person was physically present in New Zealand before 1 April 2026, they cannot be a non-resident visitor. Visits prior to 1 April 2026 will not be taken into account when determining whether a person has satisfied the eligibility criteria.

Detailed analysis

Definition of "non-resident visitor"

New section YD 1B defines a "non-resident visitor" as a natural person who is:

- in New Zealand for 275 or fewer days in total in an 18-month period, counting the arrival and departure days as a whole day
- immediately before becoming a non-resident visitor, not New Zealand resident or a transitional resident
- not undertaking work in New Zealand that:
  - is for a New Zealand resident or a New Zealand branch of a non-resident, or
  - is offering goods and services in New Zealand for income from persons or businesses in New Zealand, or
  - requires the person to be physically present in New Zealand
- not receiving a family scheme entitlement (and neither is their spouse, civil union partner or de facto partner)
- lawfully present in New Zealand under the Immigration Act 2009, and
- tax resident in a jurisdiction outside New Zealand, or liable to tax in another jurisdiction on the basis of citizenship.

Non-resident on arrival to New Zealand

Section YD 1B(2)(d) requires a person to be non-resident for New Zealand tax purposes, immediately before the first day they are personally physically present in New Zealand.

While the tax rules require a person to be in New Zealand lawfully for immigration purposes, the tax rules are not explicitly linked to requiring a person to be from a particular jurisdiction, or to enter New Zealand on a particular immigration visa. This means persons from countries such as Australia are eligible to be a non-resident visitor.

275-day count test

The 275-day period represents nine months. The "nine months in an 18-month" period reflects the maximum presence in New Zealand typically granted under a general visitor visa.[1]

Immediately prior to becoming a non-resident visitor, the person must be both not physically present in New Zealand and non-resident for tax purposes.

If a person is present for more than 275 days in any 18-month period, they no longer meet the criteria to be a non-resident visitor and will automatically transition into the existing residence and tax rules (discussed below).

Limitations on type of work undertaken by non-resident visitor

The work limitations reflect the work conditions imposed on a visitor visa holder under New Zealand's immigration rules.[2] This means that the person must not undertake work for a New Zealand employer (or New Zealand branch of a foreign employer), the work must not require the sale of goods or services for income (including money's worth) from New Zealand businesses or persons, and the work must not require the person to be physically present in New Zealand (including work in a New Zealand office or workplace, or when the person is hired to be a non-resident's New Zealand representative).

If a person is intending to undertake work in New Zealand outside these conditions, they will require an appropriate visa (such as the business visitor visa for up to three months) and are not included in the non-resident visitor exemption. Existing rules, such as the income exemption under section CW 19, already provide an exemption for income earned during short-term business visits in some circumstances.

Minor or incidental presence in New Zealand

There may be situations when work undertaken by the non-resident visitor is physically connected to New Zealand, but that connection is of a minor or incidental nature. In such cases, the connection to New Zealand is such that the work may be considered not to "require" the person's physical presence in New Zealand and would not affect the person's eligibility to be a non-resident visitor.

[1] V2.5.1 Length of permitted stay, New Zealand Immigration Operational Manual.
[2] E3.15.1 Remote work for visitor visa holders, New Zealand Immigration Operational Manual.

An activity will have a minor or incidental connection with New Zealand if it would happen regardless of location, with no necessity that the work be undertaken in New Zealand. A facts and circumstances analysis may be required and could depend on the nature of the employment or other commercial activity undertaken by the non-resident visitor. Relevant factors may include:

- The amount of time or effort involved in the undertaking and the degree of connection with New Zealand.
- The degree to which New Zealand's geography, people or other features are used in the activity and the importance of that geography, etc, to the activity.
- Whether the activity is a core duty, task or responsibility of the person (noting that core duties, etc, may still have only an incidental connection with New Zealand) and is performed for a New Zealand enterprise. When there is a contractual obligation that the activity be performed in New Zealand for example, it is unlikely to be regarded as minor or incidental in nature.

Example 1: Influencer including specific geographical features of New Zealand

Ella is an Australian citizen who normally resides in Melbourne, Australia. Ella is an experienced alpine sport climber with a growing following on social media, with Ella using action cameras to capture point-of-view videos of her climbs. Ella's income is derived from her primary job as a geography teacher and a mix of sponsorship and advertising income derived from her videos.

While on holiday in the Southern Alps, Ella films a short video of her climbing a rugged ridge and uploads it to her social media platforms. The focus of the video is the climb itself, not the fact that it is in New Zealand. Once Ella has completed her climb, she continues her personal travel around the South Island of New Zealand.

The inclusion of the geographical feature of New Zealand is minor and incidental to the commercial activity and consequently Ella is considered to be undertaking work that does not require her to be physically present in New Zealand.

Alternative scenario

Ella's growing social media presence has attracted a sponsor – Tough Ropes. Tough Ropes asks Ella to produce a series of social media videos showing the use of the Tough Ropes on specific New Zealand mountains, along with the Tough Rope's marketing tag line "Because New Zealand doesn't do ideal conditions".

Because Ella's activity involves producing social media content under a sponsorship agreement that requires the inclusion of specific geographical areas of New Zealand in the sponsored social media material, Ella's work requires her to be physically present in New Zealand. In these circumstances, the use of New Zealand geography cannot be considered minor or incidental to the commercial activity. Consequently, Ella no longer meets the requirements to be a non-resident visitor.

Example 2: Person undertaking work for their non-resident employer

Bary is travelling around New Zealand for six months while continuing to work remotely for his non-resident employer based offshore. At three months, Bary drops his employer provided laptop, damaging the laptop beyond repair.

Bary's employer, McGarvie IT Services (MITS), is a multinational company with its New Zealand office based in Wellington. Bary visits the Wellington office to replace the broken laptop with a new laptop, so he can continue to work remotely for the remainder of his trip around New Zealand.

The visit to the New Zealand office is minor and incidental to the employment activity and consequently Bary is considered to be undertaking work that does not require him to be physically present in New Zealand.

Alternative scenario

While in New Zealand, Bary is tasked by his employer to undertake an in-person review of the business's New Zealand operations and produce a report. Bary is asked to visit the New Zealand office, interview several members of the management team and review local application of company policies. Bary diligently completes these tasks.

Because Bary's activities in New Zealand now concern the New Zealand business and require him to be present on the premises to undertake those activities, Bary's work cannot be considered minor or incidental. Consequently, Bary no longer meets the criteria to be a non-resident visitor.

Work involving promotion of good, service or experience

Certain forms of work involve a person promoting a product, service, experience or lifestyle to a targeted audience, often in exchange for gain or reward. A common example is work undertaken by social media influencers, or content creators, using their reputation and profile on social media to market and influence the purchasing decisions of their audience.

Under the immigration rules,[3] a person may enter New Zealand and be legally entitled to undertake promotional activities with businesses and persons in New Zealand. However, under section YD 1B(2)(e)(ii), a non-resident visitor will not be able to undertake promotional work if they earn income from a New Zealand business or persons in New Zealand.

If the promotional activity required the influencer's presence in New Zealand (perhaps the activity explicitly or substantially required the inclusion of a certain geographical feature in New Zealand), then the work required the person to be physically present in New Zealand and, consequently, the person is ineligible to be a non-resident visitor.

[3] Ordinarily, influencers engaged in an income-earning activity are not entitled to be a visitor visa holder.

Example 3: Influencer paid by New Zealand agency to showcase New Zealand

Josh is a New Zealand citizen who resides in Australia. Josh is a world-renowned travel influencer with a strong following on social media, mainly from the art deco community. His knowledge of 1920s and 1930s architecture has made Josh a sought-after social media influencer.

A New Zealand tourism agency is keen to promote New Zealand's art deco heritage, and they contact Josh to come to New Zealand to produce several engaging short videos on New Zealand's architectural buildings.

Josh will not meet the definition of a non-resident visitor because he is being paid for promotional services by a New Zealand business.

Example 4: Influencer paid by overseas client to promote their brand

Ben is a New Zealand citizen residing in Milan, Italy. In recent years, Ben has become a well-known lifestyle fashion influencer with a significant following on social media, providing visually engaging storytelling experiences to his social media audience.

While in Queenstown, New Zealand, Ben arranges promotional services for an Italian boutique trousers brand, Fanci-fejoia, and uploads several engaging short videos promoting the brand's casual wear to his social media accounts.

Ben meets the definition of a non-resident visitor because Fanci-fejoia is not a New Zealand business, therefore the promotional services are provided to an overseas client.

Lawfully in New Zealand for New Zealand immigration purposes

A person is required to be lawfully in New Zealand continuously for their period as a non-resident visitor. Should their immigration status change, such that they became unlawfully present in New Zealand, they will immediately cease to be a non-resident visitor.

On ceasing to be a non-resident visitor because their presence was unlawful, the existing residence tests in section YD 1 will apply as if the person was never a non-resident visitor. If the person breached the 183-day rule by exceeding 183 days of presence in a 12-month period, they are treated as resident retrospectively, that is, from the first day of their arrival in New Zealand.

To avoid this outcome, a non-resident visitor must depart New Zealand before becoming unlawfully present in New Zealand.

A person who is unlawfully in New Zealand has an obligation to leave New Zealand (section 18 of the Immigration Act).

Tax resident in another jurisdiction

The person has to be tax resident in another country or territory to be a non-resident visitor. This is an integrity rule to ensure the income earned while visiting Zealand is subject to income tax in a jurisdiction.

A person can also satisfy section YD 1B(2)(h) if their tax residence arises solely from their citizenship of a country that of itself gives rise to liability for income tax on a worldwide basis. These are jurisdictions that tax all citizens irrespective of their place of residence (for example, the United States of America).

If, part way through the person's visit to New Zealand, they became no longer tax resident in another country (perhaps due to their absence), they will immediately cease to be a non-resident visitor in New Zealand and the existing tax residence rules will apply on a prospective basis.

When a person has ceased their tax residence in another jurisdiction, that jurisdiction's tax residence rules could result in the person's tax residence having ceased retrospectively (often by several months). In these circumstances, this backdated cessation of their tax residence is disregarded when assessing when the person ceased to be tax resident in the other jurisdiction under the criteria of being a non-resident visitor (section YD 1B(3B)). The intent of this rule is to support a person who has found themselves in the situation of ceasing their tax residence in another jurisdiction retrospectively.

New section CW 22D ensures that income derived by a non-resident visitor derived between the date when the person ceased being a tax resident in another jurisdiction (the effective date) and the date the person stopped being a non-resident visitor under section YD 1B(4) (the cessation date), is treated as being liable to tax in the jurisdiction outside New Zealand (and therefore not subject to New Zealand tax under the ordinary rules).

Example 5: Non-resident visitor for up to nine months in an 18-month period

Andrew arrived in New Zealand on 1 July 2026 and departed New Zealand on 10 March 2027. While Andrew was travelling around New Zealand, he continued to answer emails and send invoices for work he completed for his foreign clients.

Andrew was not resident in New Zealand before 1 July 2026 and had not been present in New Zealand before that date.

Andrew was present in New Zealand for 253 days from 1 July 2026. Andrew was in New Zealand for less than 275 days, so he is deemed to be a non-resident visitor for the duration of his stay in New Zealand.

Exclude other persons subject to existing rules

Under the ITA, certain persons visiting New Zealand for a short period are subject to their own rules for tax residence and income.

Similar to the existing income tax exemption for income earned by short-term visitors in section CW 19, income earned by a public entertainer is excluded from the income tax exemption.

For other persons deriving income from services, such as visiting entertainers and sportspersons (section CW 20), visiting crew of pleasure craft (section CW 21), and non-resident seasonal workers (foreign fishing crews and recognised seasonal workers (section YD 1(11)), the nature of the work typically requires the work to be physically performed in New Zealand. This means they will be ineligible to be a non-resident visitor, and as a result, the existing tax rules apply to these groups.

183-day rule does not apply to non-resident visitors

New section YD 1(13) means a non-resident visitor is a non-resident for tax purposes, so a non-resident visitor is not subject to the 183-day rule when determining the person's New Zealand tax residence under section YD 1(3).

The residence exemption only applies to section YD 1(3) and does not override other residence tests of a natural person in section YD 1, including the permanent place of abode rule in section YD 1(2). This rule is the overriding tax residence rule for a natural person.

Permanent place of abode rules still apply

A non-resident visitor is still subject to the permanent place of abode rules. The term permanent place of abode has been described in case law as a place where a taxpayer habitually resides from time to time even if they spend periods of time overseas. To determine if a person has a permanent place of abode in New Zealand requires an overall assessment of the person's circumstances and the nature and quality of the use the person habitually makes of a particular place of abode.

Given the short-term and temporary nature of a non-resident visitor's visit to New Zealand, it is unlikely that their residing in a particular dwelling will, on its own, constitute a permanent place of abode.

Example 6: Non-resident visitor stays with family in New Zealand

Will is a New Zealand citizen who has lived and worked in Australia for over a decade. Will has not returned to New Zealand for the past several years due to his business commitments in Australia.

Will and his partner Nicole decide to visit New Zealand with their new baby (Sammy) to see his family. Given it is the first time the family is seeing Sammy, Will and Nicole decide to stay with his parents in their home while visiting New Zealand for two months. Will has an apartment in Australia, where they live. He continues to run his Australian business while he is visiting New Zealand.

Will's home and economic interests are in Australia, and they intend to return there after this short visit. Will's parent's family home, where he is staying during his visit, does not constitute a permanent place of abode for Will.

Example 7: Leasing apartment for duration of stay in New Zealand

Eleana is an international netball analyst, providing specialist game analysis services to various netball leagues around the world. This work often involves Eleana reviewing game video online. Eleana is based in Singapore and is a tax resident there.

Eleana decides to undertake a visit to New Zealand and would prefer to stay in one place rather than periodically move around New Zealand. Eleana leases an apartment in Queenstown for nine months and provides game analysis services during this time.

Eleana intends to return to Singapore after her nine-month trip to New Zealand. She leaves most of her personal property in Singapore and has economic and social ties there. Eleana is residing in her Queenstown apartment for a relatively short period, and her economic and social ties remain in Singapore. In these circumstances, the leased apartment in Queenstown will, not be a permanent place of abode for Eleana.

Person ceases to be non-resident visitor

A non-resident visitor may stay in New Zealand for longer than 275 days in an 18-month period. Alternatively, they may cease to be a non-resident visitor because they no longer meet one of the other criteria in section YD 1B.

When a person stops being a non-resident visitor, they will be subject to the existing rules, including residence and income source rules. Their tax treatment will depend on whether they continued to be lawfully in New Zealand for immigration purposes.

New Zealand residence on prospective basis

New section YD 1(14) provides that when a person ceases to be a non-resident visitor, while remaining lawfully in New Zealand,[4] the person will be subject to the existing tax residence rules on the date the cessation occurs, on a prospective basis.

If the person has acquired a permanent place of abode, they will be New Zealand resident from that day. However, the residence test most likely to apply is the 183-day rule, with the time already spent physically present in New Zealand as a non-resident visitor counting towards the 183 days.

If a person ceased to qualify as a non-resident visitor because they were present in New Zealand for more than 275 days, they become New Zealand resident from day 276 of being physically present in New Zealand, that is, on a prospective basis, because they would have already satisfied the 183-day rule.

If a person ceased to qualify as a non-resident visitor because they stopped satisfying one of the other criteria for a non-resident visitor under new section YD 1B(4), and they have not yet satisfied the 183-day rule in section YD 1(3), or other applicable tax residence rules they will continue to be a non-resident under existing rules. Consequently, they become New Zealand resident if their physical presence in New Zealand exceeded 183 days in a 12-month period or they have a permanent place of abode.

Applying New Zealand tax residence prospectively for a person who ceases to be a non-resident visitor avoids complexity and adds certainty for the visitor and non-resident employer or others. This is because the tax risk associated with retrospective application of the existing rules is significant and could have the effect of undermining the policy intent.

When a person has ceased to be a non-resident visitor, the prospective basis to tax residence of the person will flow through to any associated entities of the person, such as a foreign company or trust established overseas (see Non-resident visitors and offshore entities).

The prospective treatment only applies under the ITA and will not apply to existing residence rules that are included in other Acts, such as the Student Loan Scheme Act 2011. This is because these rules serve different purposes and can have a wider impact on the person's obligations.

Example 8: Non-resident visitor status ceases and 183-day rule applied

Kaitlyn is a United Kingdom citizen and entered New Zealand on a visitor visa on 1 October 2026.

Kaitlyn was not resident in New Zealand before 1 October and had not been present in New Zealand before that date.

[4] Including when the person has transferred to another immigration visa, such as a work visa.

On 18 June 2027, Kaitlyn has already spent 260 days in New Zealand and remains in New Zealand. However, Kaitlyn has successfully obtained a three-year work visa and begins working for a New Zealand employer. Kaitlyn no longer meets the criteria to be a non-resident visitor.

Because Kaitlyn lawfully remains in New Zealand, she will transition to the existing tax residence rules. The 260 days will be applied against the 183-day rule.

Kaitlyn has been present in New Zealand for 260 days (so more than the 183 days required). Therefore, from 18 June 2027, she will be New Zealand resident. However, she will not be deemed to be retrospectively resident in New Zealand for any of the period before she lost her non-resident visitor status on 18 June 2027.

Example 9: Non-resident visitor for up to nine months in 18-month period

Matteo arrived in New Zealand on 1 July 2026 and departed New Zealand on 31 August 2026, a total of 62 days of presence in New Zealand. Matteo was then absent from New Zealand for 87 days. He returned to New Zealand on 27 November 2026 and remained here for a further 218 days, departing on 2 July 2027.

Matteo was not resident in New Zealand before 1 July 2026 and had not been present in New Zealand before that date.

Matteo was present in New Zealand for 280 days, from 1 July 2026. Because Matteo was in New Zealand for more than 275 days, he ceased being a non-resident visitor on 28 June 2027. Matteo also spent more than 183 days in New Zealand during the preceding 12-month period, meaning he will be a New Zealand resident from 28 June 2027, but not for any prior period while he was still a non-resident visitor.

New Zealand residence on retrospective basis

Under new section YD 1B(2)(g), a non-resident visitor will be required to be lawfully in New Zealand under the Immigration Act. If the non-resident visitor became unlawfully in New Zealand (including when the person has over-stayed their immigration visa), they will immediately cease to be a non-resident visitor and will be treated as if they were never a non-resident visitor, under new section YD 1B(3)(a). Retrospective residence in this case is intended to maintain the integrity of New Zealand's tax and immigration rules.

When a person has become unlawfully in New Zealand and is therefore treated as never having been a non-resident visitor under new section YD 1B(3)(a), that retrospective treatment does not flow through to other persons (such as non-resident employers). Instead, the effect is prospective only, where the liabilities and obligations of the other persons remain unaffected, until the date the person's non-resident visitor status had ceased (section YD 1B(3)(b)).

Similar to the treatment above, time present in New Zealand as a non-resident visitor will be counted towards the existing residence rules. However, if the time present means the person satisfies the 183-day rule, the existing rule in section YD 1(4) will apply and the person will be treated as New Zealand resident from the first of the 183 days of personal presence. This is the same retrospective treatment applied to a person who is not a non-resident visitor under the existing 183-day rule.

Example 10: Cessation of non-resident visitor status and 183-day rule

Shelby is a visitor who entered New Zealand on 1 August 2026.

Shelby was not resident in New Zealand before 1 August and had not been present in New Zealand before that date.

On 3 May 2027, Shelby has spent 276 days in New Zealand and is loving his time in New Zealand. Despite no longer having a valid immigration visa, Shelby intends to remain in New Zealand after that date.

Because Shelby does not have a valid immigration visa and is unlawfully in New Zealand from 3 May 2027, he will be treated as never having been a non-resident visitor for the purposes of the residence tests. Because Shelby has been present in New Zealand for more than 183 days, he is a tax resident in New Zealand from the first of the 183 days, which would be the day he arrived in New Zealand, 1 August 2026. Shelby will have to comply with his New Zealand tax obligations on that basis.

Existing tax rules would apply to person ceasing to be non-resident visitor

Upon ceasing to qualify as a non-resident visitor, the existing tax rules will apply. The resulting outcomes may vary depending on the person's specific circumstances.

One outcome is that the person may be subject to the transitional residence rules. This would be when the person has ceased to be a non-resident visitor and becomes a New Zealand resident who meets the transitional residence requirements (which exempt the person from taxation on non-New Zealand-sourced passive income). The commencement of the existing four-year transitional residence rule would occur the day they become New Zealand resident.

New section HR 8(2B) clarifies when a person becomes a transitional resident because of the time period in which they are non-resident visitor.

Another outcome is that the person may be entitled to the income tax exemption in section CW 19. This relief is available when, upon ceasing to be a non-resident visitor, the person's presence in New Zealand is less than 92 days (so they are a non-resident under existing rules) and they met the additional conditions in section CW 19. The time spent as a non-resident visitor will be counted towards the 92-day period in section CW 19.

Additionally, the person may be entitled to relief under a relevant DTA.

Example 11: Non-resident visitor status ceases at five months and treaty residence rule applies

Stewart, a Canadian tax resident physicist, came to New Zealand on 1 June 2026 as a tourist. Stewart qualified as a non-resident visitor. Stewart has family and investments in Canada.

While visiting New Zealand, Stewart attended a few physics seminars and events intending to grow his network. As a result of his new connections, Stewart obtains a nine-month employment contract with a New Zealand resident business (Zappy Electric). On 1 November 2026 he begins to work for Zappy Electric. Because he is undertaking work for a New Zealand business, Stewart no longer qualifies as a non-resident visitor. New Zealand's tax residence rules will apply on a prospective basis. Assuming only the 183-day test applies, and he remains in New Zealand for the nine-month period, he will ultimately exceed 183 days and be resident from 1 December 2026.

To determine the tax treatment of Stewart's employment and passive income, the New Zealand–Canada DTA could be applied. If he remained tax resident in Canada under Canadian domestic law, the treaty residence tie-breaker test would be applied first to resolve where he is resident for treaty purposes. The relevant articles would then be applied to determine the treatment of his income under the treaty.

Exclusion from family assistance

Under new section YD 1B(2)(f), a non-resident visitor, or their spouse, civil union partner, or de facto partner, cannot receive an entitlement to Working for Families tax credits (including Best Start).

The amendments will ensure a non-resident visitor does not claim an income tax exemption at the same time they, or their spouse, civil union partner or de facto partner, receive family assistance payments. The inclusion of the non-resident visitor's spouse, civil union partner or de facto partner is because family assistance entitlement is based on a family's total income (known as family scheme income). The rule will have a similar effect to the existing exclusion for the transitional residence rule (section HR 8(5)).

The definitions of "civil union partner" and "spouse" in section YA 1 have been updated to ensure they do not include a separated person for non-resident visitors.

Income included in student loan adjusted net income

When a person is a non-resident for tax purposes but is a "New Zealand-based" borrower for student loan purposes, the borrower is required to declare income from all sources including income and adjustments that apply to them as if they were a New Zealand resident (known as

adjusted net income). This non-resident overseas income is included when calculating the borrower's student loan repayment obligation for a relevant tax year.

New clause 5 of schedule 3 of the Student Loan Scheme Act clarifies that, for the avoidance of doubt, income subject to the non-resident visitor's income tax exemptions is not treated as exempt income for student loan purposes. This means this exempt income is included when calculating a borrower's adjusted net income.

Employment and professional services income earned by non-resident visitor

Sections CW 19(3), CW 22B, CW 22C, CW 22D, RD 8(1)(b)(vii) and (viii), RD 64(3), and YA 1 of the Income Tax Act 2007

Summary of amendments

The Act amends the tax treatment of certain services income earned by a non-resident visitor while physically present in New Zealand.

All legislative references are to the Income Tax Act 2007 (ITA).

Effective date

The amendments take effect on 1 April 2026, applying to persons who arrive in New Zealand on or after 1 April 2026.

Background

Ordinarily, income earned by a non-resident (such as employee or self-employed contractor income) physically present in New Zealand providing services to a non-resident is subject to New Zealand income tax. However, when the visit is for 92 days or fewer, this income may be exempt from New Zealand income tax under domestic law (subject to certain conditions). Alternatively, a double tax agreement (DTA) may mitigate double taxation.

A person visiting New Zealand could remain in New Zealand on a visitor visa for much longer than 92 days (generally up to nine months). Accordingly, depending on their particular circumstances, services income earned by the visitor may be subject to New Zealand income tax before the end of their visitor visa period. This means that they must decide whether to remain in New Zealand and consequently be subject to New Zealand tax obligations and tax compliance requirements or depart New Zealand earlier than they otherwise would have.

When the visitor is providing services to a non-resident employer or client, then there was a risk of New Zealand tax consequences for that other person, such as the creation of a permanent establishment. This is discussed below for employers and in "Non-resident visitors and offshore entities".

Key features

The amendments deem certain services income earned by a non-resident visitor as exempt from New Zealand income tax. In addition, when a non-resident business is held to have income sourced

in New Zealand because of a non-resident visitor's presence in New Zealand, that income will be deemed to be exempt from New Zealand income tax. The amendments:

- deem personal or professional services income earned by a non-resident visitor to be exempt from New Zealand income tax (new section CW 22B)
- deem an amount of income earned by a non-resident business or self-employed person to be exempt from New Zealand income tax when the income has a New Zealand source because of the presence of a non-resident visitor (new section CW 22C), and
- exclude income earned by a public entertainer from the income tax exemptions (new sections CW 22B(2) and CW 22C(2)).

The exempt income of a non-resident visitor will also be excluded from several regimes to ensure the income earned by the non-resident visitor does not result in New Zealand tax obligations for other persons. The amendments:

- exclude a payment to a non-resident visitor that is exempt income from the schedular payment rules under sections CW 22B and CW 22C (section RD 8(1)(b)(vii) and (viii))
- exclude a benefit received by a non-resident visitor employee from fringe benefit tax (section CX 26(3))
- ensure employer superannuation contribution tax (ESCT) does not apply when an employer or another person makes an employer's superannuation cash contribution for the benefit of a non-resident visitor (section RD 64(3)).

The activities of a non-resident visitor are disregarded when determining whether a foreign entity has established a permanent establishment in New Zealand (section YD 4B(5)).

The tax treatment of other New Zealand-sourced income earned by a non-resident visitor is unaffected by the amendments and remains subject to existing rules. For example, interest income paid to a non-resident visitor will remain liable for non-resident withholding tax.

Detailed analysis

Some visitors to New Zealand may continue to work for their non-resident employer or non-resident clients while in New Zealand. This may range from incidental work, such as answering emails, through to engaging in full-time work. Before the amendments, while in New Zealand the income earned by the visitor from work undertaken for their non-resident employer or client would have been New Zealand-sourced and subject to New Zealand tax (subject to existing concessions and DTAs).[5]

[5] In certain situations, the person may be eligible for a foreign income tax credit for the income tax paid in New Zealand.

The amendments seek to ensure a non-resident visitor can continue to work as an employee for a foreign employer or as a self-employed person (regardless of whether the self-employed person carries on their business as a sole trader or via a company, partnership or other arrangement) without giving rise to New Zealand tax obligations.

Income tax exemption for certain services income derived by non-resident visitor

New section CW 22B deems income derived by a non-resident visitor from performing personal or professional services in New Zealand to be exempt income, when:

- the services are performed for or on behalf of a non-resident, and
- the amount derived from these services is liable to tax in a country or territory in which the person is resident or they are liable to tax in a country or territory on the basis of citizenship.

The new exemption is intended to apply to both employee and/or contractor income.

Tax resident and income liable to tax

The income tax exemption for services income includes an integrity rule (section CW 22B (1)(b)) to ensure the income is liable to tax in at least one other jurisdiction outside New Zealand in which the non-resident visitor is a tax resident or is liable to tax on the basis of citizenship. This rule ensures that although the services income is exempt from New Zealand income tax, it may still be liable to tax in the person's country of residence.

Tax may not be paid on the services income in the other jurisdiction, because, for example, the income may fall within a tax-free threshold or personal allowance. However, the amount must at least be liable to tax in that other jurisdiction.

Under the requirement for income to be liable for tax, the person will only need to determine whether the income is liable for tax in another jurisdiction they are either tax resident in or are liable to tax on a worldwide basis because of citizenship. The income is liable to tax irrespective of the nature, form or rate of tax imposed.

Income tax exemption for business income

New section CW 22C deems income derived by a non-resident business or self-employed person to be exempt from New Zealand income tax when the income would otherwise be subject to New Zealand income tax because of a non-resident visitor's physical presence in New Zealand.

Like new section CW 22B for services income, the income tax exemption requires the amount derived to be liable to tax in a country or jurisdiction outside New Zealand in which the non-resident visitor is a tax resident or is liable to tax on the basis of citizenship (section CW 22C(1)(b)). The interpretation discussed above for *liable to* tax in section CW 22B(1)(b) also applies to this income tax exemption.

Exclusion of a public entertainer

New sections CW 22B(2) and CW 22C(2) provide that the income tax exemptions for services income and business income derived by a non-resident business will not apply to the income earned by a public entertainer. This aligns with the treatment in section CW 19(2).

Exclusion from employment-related tax rules

The definition of a non-resident visitor means the person is prevented from engaging in work in exchange for income from a New Zealand employer or to sell goods or services to New Zealanders. However, remote work is permitted under the new rules.

Depending on the nature of the services performed for a non-resident payer or employer, the income earned may be subject to other tax regimes in New Zealand. As a result, the following new exemptions are for non-resident payers and employers of non-resident visitors:

- an exclusion from the definition of schedular payments for payments that are exempt income under new sections CW 22B and CW 22C (section RD 8(1)(b)(vii) and (viii))
- an exclusion from fringe benefits for a benefit received by a non-resident visitor employee (section CX 26(3))
- an exception from the ESCT rules for an employer of, or other person who makes an employer's superannuation cash contribution for the benefit of, a non-resident visitor (section RD 64(3)).

Once the person ceases to meet the criteria of a non-resident visitor, the person, the payer, or the employer becomes subject to the usual employment-related tax rules on subsequent payments received by the person.

Exclusion from schedular payment rules

Section RD 8(1)(b)(vii) means an amount that is exempt income to a non-resident visitor (who would otherwise by a "non-resident contractor") under section CW 22B will not be within the meaning of a "schedular payment". Therefore, the amount is not subject to the schedular payments rules and withholding at rates specified in schedule 4. The same applies to an amount that is exempt income of a non-resident derived under section CW 22C, under section RD 8(1)(b)(viii).

Exclusion from PAYE and other obligations

Ordinarily, employment income is subject to pay-as-you-earn (PAYE) and other deductions and contributions, such as KiwiSaver and Accident Compensation Corporation (ACC) levies.

Exempt income under new sections CW 22B and CW 22C will not be subject to the PAYE rules, because the PAYE rules apply to a "PAYE income payment" (defined in section RD 3), which excludes exempt income.

As exempt income, the income is also not subject to ACC levies.[6]

Further, deeming qualifying personal or professional services income to be exempt when earned by a non-resident visitor means that income is not generally expected to be subject to contributions such as child support payments,[7] KiwiSaver, and student loan repayment deductions.[8]

[6] Employer and employee levies are based on salary or wages, and extra pay. Exempt income is excluded from both these definitions.
[7] Exempt income is not included in the child support income assessment. If the income is reported in another jurisdiction, this information may be reported by the relevant agency or the liable parent. If no information is provided, an administrative view can be undertaken to estimate the income earned by the liable parent.
[8] Repayments for New Zealand-based borrowers are based on either salary or wages (employee) or net income, which excludes exempt income (self-employed).

Non-resident visitors and offshore entities

Sections YA 1, YD 1(13) and (14), YD 2(1C), YD 3(4), YD 4(17C)(c) and (17D)(d), and YD 4B(5) of the Income Tax Act 2007

Summary of amendments

The amendments ensure that entities associated with a non-resident visitor are not considered when determining whether the entity is New Zealand tax resident or the entity's income is subject to New Zealand tax obligations.

All legislative references are to the Income Tax Act 2007 (ITA).

Effective date

The amendments take effect on 1 April 2026, applying to persons who arrive in New Zealand on or after 1 April 2026.

Background

The ITA includes tax residence rules for entities that include consideration of the physical presence or actions of a natural person in New Zealand.

The strict nature of these rules means a non-resident visitor's presence, actions or decisions in New Zealand may result in New Zealand tax obligations being imposed on the entities. Many non-resident visitors may not be fully aware their presence or decisions undertaken by them while in New Zealand could result in New Zealand tax consequences and compliance costs for their associated entities.

Key features

Section YD 2(1C) disregards the activity of a non-resident visitor physically present in New Zealand when determining whether a company is tax resident in New Zealand. The amendments mean:

- the decisions undertaken by a non-resident visitor are disregarded in the application of the head office rule
- the decisions undertaken by a non-resident visitor are disregarded in the application of the centre of management rule, and
- the decisions undertaken by a non-resident visitor are disregarded under the director control rule.

Detailed analysis

Exemption from head office test

The head office corporate residence test is based on the physical place where the company's administration and management of the business is directed and carried on.

Section YD 2(1C) means a non-resident visitor's activity in New Zealand is disregarded when determining whether the head office test has been satisfied.

Exemption from centre of management test

When a company is incorporated in another jurisdiction, but its centre of management is in New Zealand, the company would be New Zealand tax resident under existing domestic rules. This could particularly impact smaller, potentially family-run companies when most, or all, of the company's management are in New Zealand as non-resident visitors.

Section YD 2(1C) means a non-resident visitor's activity in New Zealand is disregarded when determining whether the centre of management test has been satisfied.

Exemption from director control test

Ordinarily, when a person in New Zealand, acting in their capacity as a director, exercises control of a company, the company would be New Zealand tax resident, even if directors' decision-making also happens outside New Zealand.

Section YD 2(1C) disregards the activity of a non-resident visitor in New Zealand when determining whether the director control test is satisfied. A corresponding amendment to section YD 3(4) was required to ensure consistency between sections YD 2 and YD 3.

Settlors or trustees of trust established outside New Zealand

Trusts are not treated as separate entities, so the tax residence of the persons connected to a trust (settlors, trustees and beneficiaries) determine whether the trust's income is subject to New Zealand tax.

Section YD 1(13) ensures the presence of a non-resident visitor in New Zealand who is a settlor, trustee or beneficiary of a trust should not result in any change to the tax treatment of the trust or its income. This is because the non-resident visitor is deemed to be non-resident during their qualifying stay in New Zealand.

PE of non-resident enterprise

When an enterprise resident in one jurisdiction conducts its economic activities in another jurisdiction (the source jurisdiction), there is the potential for the enterprise to establish a permanent establishment (PE) in the source jurisdiction. Ordinarily, a PE could arise from the

activities of a non-resident visitor under a double tax agreement (DTA) between New Zealand and another jurisdiction or under section YD 4B and schedule 23 (when there is no DTA).

A PE can be established in a number of ways, such as:

- when the business of the enterprise is carried on through a fixed place of business and no exclusion applies
- services are provided for periods exceeding in the aggregate 183 days in a 12-month period and certain additional conditions are met, or
- when there is a dependent agent of the enterprise who acts on behalf of the enterprise and certain additional conditions are met.

The creation of a PE means that a portion of the enterprise's income is attributable to that PE and taxable in the source jurisdiction.

A non-resident visitor who works in New Zealand for a non-resident business will most likely use several telecommunication technologies to perform their work. Depending on their activities and circumstances, including whether they work in different places, this may not create a PE. Despite this, the potential tax risk and implications of a PE being created through the activities of a non-resident visitor could be a significant concern for non-resident businesses (including non-resident employers discussed in "PE of non-resident employer" below).

Section YD 4B(5) provides that the activities of a non-resident visitor are disregarded when determining whether a non-resident enterprise has a PE in New Zealand. In addition, the definition of a "fixed establishment" in section YA 1 is amended to exclude a fixed place of business of a non-resident visitor.

It is expected the exemption will benefit persons who are in New Zealand predominantly for personal reasons and undertake work for a non-resident business. If the non-resident visitor ceases to qualify for the new exemptions, existing tax rules will apply as described in "Tax residence of visitors to New Zealand".

PE of non-resident employer

When a non-resident visitor is undertaking work as an employee while in New Zealand, there is a potential risk the activity of the non-resident visitor could create a PE for the non-resident employer. (Further analysis of the PE rules is included in "PE of non-resident enterprise" above.) This concern means that non-resident employers may not permit their employees to work remotely from another jurisdiction.

To ameliorate concerns for businesses and employers, section YD 4B(5) provides that the activities of a non-resident visitor are disregarded when determining whether a non-resident enterprise has

a PE in New Zealand. If the non-resident visitor ceases to qualify for the exemptions, existing tax rules will apply, as described in "Tax residence of visitors to New Zealand".

Exemptions to source rules

Under section YD 4(17C), income that is attributable to a permanent establishment may be deemed to have a New Zealand source. This gives rise to New Zealand tax obligations as a result of the income earned by a non-resident visitor. New section YD 4(17D)(d) means such income will not be subject to this rule.

The actions of a non-resident visitor can give rise to a permanent establishment as defined under a relevant tax treaty between New Zealand and another jurisdiction. This income is deemed to have a New Zealand source under section YD 4 (17D). New section YD 4(17D)(d) means this income will not be subject to this rule.

Making GST registration optional

Sections 2(1) and 51(1D) of the Goods and Services Tax Act 1985

Summary of amendment

The amendments allow non-resident visitors who only make certain zero-rated supplies of services to non-residents the ability to choose not to register for GST.

All legislative references are to the Goods and Services Tax Act 1985 (GST Act).

Effective date

The amendments take effect on 1 April 2026, applying to persons who arrive in New Zealand on or after 1 April 2026.

Background

Under current law, persons who make or expect to make more than NZ$60,000 of taxable supplies in any 12-month period are required to register for GST. Taxable supplies include services provided to non-residents that would be subject to GST at the rate of 0%. This means some visitors undertaking remote work while in New Zealand may have been required to register for GST in New Zealand despite there being no tax revenue benefit for the Crown.

The Government recognised there was an opportunity to remove compliance costs associated with GST registration for non-resident visitors who do not want to be registered for GST. The amendments now allow non-resident visitors who only make zero-rated supplies of services to non-residents to ignore the value of those supplies for the purpose of determining whether they need to register for GST. The GST Act already includes a similar exception to the general registration requirement for unit title bodies corporate, which can choose to not count body corporate levies towards the $60,000 registration threshold. The exception for non-resident visitors is modelled on this.

To preserve GST neutrality for non-resident visitors who are not employees, GST registration is still available for non-resident visitors who choose to register if they meet the usual criteria for GST registration. This ensures they are still able to deduct input tax on any goods and services they acquire in New Zealand and use to provide their services to their non-resident clients.

Detailed analysis

New section 51(1D) allows non-resident visitors[9] to choose to ignore the value of supplies of services they make to their non-resident clients for the purpose of determining whether they have

[9] See "Definition of 'non-resident visitor'" for the definition.

exceeded or will exceed the GST registration threshold. The value of supplies made to non-resident clients can only be ignored for this purpose if the supplies are of services that are:

- unrelated to land or moveable personal property in New Zealand, and
- supplied to a person who is a non-resident and who is outside New Zealand at the time the services are performed.[10]

Non-resident visitors could still choose to register for GST even if their only supplies are made to non-residents. They need to meet the usual criteria for GST registration (including not being an employee) and register in the ordinary way.

Example 12: Non-resident visitor with supplies over NZ$60,000 registration threshold

Rebecca is a non-resident visitor in New Zealand for eight months. While she is visiting, she expects to provide more than NZ$60,000 of taxable supplies to a non-resident client. Her client will not be in New Zealand at the time the services are performed, and the services do not relate to land or moveable personal property situated in New Zealand.

Prior to the introduction of the new rules, Rebecca would have been required to register for GST in New Zealand. However, the changes now allow Rebecca to choose between:

- ignoring the value of the services of more than NZ$60,000 she provides to her non-resident client for the purpose of determining if she will exceed the GST registration threshold, or
- not ignoring the services and choosing to register for GST in New Zealand voluntarily.

Rebecca wants to register for GST so she can deduct input tax on her New Zealand expenditure related to making taxable supplies to her non-resident client. She registers in the usual way. If she decided not to register for GST, she will not need to do anything.

[10] If these criteria are met, the services would be zero-rated under section 11A(1)(k).

Foreign investment fund – revenue account method

Foreign investment fund – revenue account method

Sections CD 36(1)(b)(v), CQ 5(1)(g), CV 19(2)(c), CX 57B(1), DN 5(2B), DN 6(1)(g), DN 8B, EX 44, EX 46(1)(b) and (9B), EX 46B, EX 56B, EX 57(1)(b)(v), EX 59, EX 59B, EX 62(1), (2)(h), (8B), (8C), (9), and (10), EX 63(1)(a) and (b), (6), (6B), and (7), EX 65(2) and (6), EX 68(1)(f), EX 71, EZ 32H, GC 4(1)(b) and (3)(b), IA 7(6B), LE 1(4B), LJ 2(6), RE 10B(1)(b), and YA 1 of the Income Tax Act 2007

Sections 120PB and 139BB of the Tax Administration Act 1994

Summary of amendments

The amendments add a new calculation method for calculating foreign investment fund (FIF) income or loss from attributing interests in a FIF. The new revenue account method (RAM) allows certain FIF interests to be taxed on a realisation basis, that is, on dividends derived and gains or losses on disposal.

Effective date

The amendments take effect on 1 April 2025.

Background

The FIF rules address the tax-driven incentive to invest in offshore rather than domestic companies. Generally, they do so by taxing foreign shares at 5% of the value of those shares at the beginning of the year or (if the shares are held by an individual or a family trust) the change in value of the shares during the year plus any dividends derived. If the shares cannot be easily valued, the 5% can be based on adjusted cost value.

Because the FIF rules deem income to arise independent of any cash receipt, the resulting tax liability can be difficult to finance, particularly if the shares are unable to be sold. This is particularly an issue for migrants who come to New Zealand with pre-existing unlisted share investments made at a time when they had no knowledge of the FIF rules or expectation that they might be subject to them.

In addition, for a migrant, the FIF rules require valuation of foreign shares at the beginning of the year the FIF rules first apply. Valuations can be expensive and difficult, particularly for start-up companies.

Lastly, double taxation can occur as a result of the FIF rules taxing unrealised income. If a person is subject to tax in another country on gains from the sale of their shares, it is possible that neither the foreign tax on sale nor the tax calculated under the FIF rules are creditable against each other.

This is particularly an issue for United States (US) citizens and Green Card holders who remain subject to US tax on worldwide income even when they are tax residents elsewhere.

Key features

The Government has agreed to targeted relief to lower the tax barriers for migrants who are considering moving to New Zealand and returning New Zealanders who hold shares in foreign companies.

The amendments add the RAM as a new FIF calculation method. The RAM taxes dividends derived and gains on disposal from qualifying FIF interests on a realisation basis. The RAM is only applicable to certain direct income interests in foreign companies.

Key features of the RAM include:

- Gains and losses on disposal are discounted by 30% before being taxed at the person's marginal tax rate.
- Losses on disposal may only be used against dividends derived from, and gains on disposal of FIF interests to which the RAM is applied. Excess losses may be carried forward into future years.
- A natural person needs to have been a non-resident under New Zealand domestic law or under a double tax agreement for five years before they become a New Zealand tax resident to be eligible to use the RAM.
- When a person elects to apply the RAM to their FIF interests, and they subsequently become a non-resident, they remain taxable on those FIF interests if sold within three years of becoming a non-resident.

Detailed analysis

The amendments introduce the new RAM to section EX 44 of the Income Tax Act 2007 (ITA) as an additional method to calculate a person's FIF income or loss from an attributing interest in a FIF. To give effect to the establishment of the new RAM calculation method, the amendments also define RAM interests (certain shares in foreign companies) and RAM taxpayers, who are eligible for the RAM.

The amendments also create an extension of the RAM rules for extended RAM taxpayers, with its own set of eligibility criteria.

Amendments to existing legislation also integrate the mechanics of the RAM into the FIF regime.

Revenue account method

The RAM taxes certain FIF interests on a realisation basis. This means any dividends derived from those interests and any gains or losses on disposal of those interests are taxable.

Any dividends derived from a RAM interest are taxed at the taxpayer's marginal rate in the year they are derived.

Any gains or losses arising from a disposal of a RAM interest are discounted by 30% before being taxed at the taxpayer's marginal rate in the year of its disposal.

Example 13: Calculating taxable FIF income

Jenny has an eligible FIF interest to which she has elected to apply the RAM. In the 2025–26 income year, she derived a dividend of $100 and sold the interest for a net gain of $5,000. Her marginal tax rate is 33%.

The taxable FIF income arising from this interest for the 2025–26 income year is:

dividend ($100) + (gain on sale ($5,000) x 70%) = $3,600.

Her tax liability is:

$3,600 x marginal tax rate (33%) = $1,188.

What FIF interests are eligible?

The RAM only applies to certain FIF interests. The types of FIF interests eligible for the RAM are shares in a foreign company that were acquired before the person becomes a New Zealand tax resident (including before they become a transitional resident) or before a treaty non-resident tie-breaks to New Zealand, and have the following characteristics:

- the share is not listed on any stock exchange
- there is no effective redemption facility for market value in relation to the share, and
- the share is not in an entity that derives 80% or more of its value from shares that are not eligible under (a) or (b) above.

Example 14: FIF interests that are not eligible

Serah is an eligible person with interests in the following FIFs:

- Shares in companies that are listed on a stock exchange.
- Shares acquired as part of her salary package from her time working for a start-up firm. The firm has not been listed on a stock exchange anywhere and does not offer a redemption facility.
- Interests in an index fund that tracks the S&P 500. The index fund is a product offered by a fund manager and is not an exchange-traded fund.

- An interest as a beneficiary of a foreign superannuation scheme.

The shares in listed companies do not meet the eligibility criteria.

The shares acquired from Serah's involvement in a start-up firm are eligible for the RAM. This is because they are not listed on any stock exchange and the firm does not offer a redemption facility for market value for those shares.

Her interest in the index fund is not eligible because the fund tracks and invests in accordance with a stock exchange (and therefore derives more than 80% of its value from interests in companies listed on the stock exchange).

Her shares in the foreign private company are not eligible because they were obtained after she became a New Zealand tax resident.

Finally, Serah's interest in a foreign superannuation scheme is not eligible because the RAM is only applicable to shares in foreign companies.

While shares that are obtained after becoming a New Zealand tax resident are not eligible for the RAM, shares that meet the requisite characteristics are eligible if they are obtained as a result of arrangements entered into before the person became a New Zealand tax resident.

One scenario under which this could occur is follow-on investments. This is when the person makes additional investments into an existing company after the initial investment. However, the RAM is only applicable to follow-on investments that the person is contractually required to make. This includes shares obtained from employment arrangements entered into before migrating to New Zealand. For instance, if the person enters into an employee share scheme (for shares in an unlisted company) before becoming a New Zealand tax resident and continues to receive foreign shares (with all the above characteristics) after becoming a New Zealand tax resident under that scheme.

The RAM is not applicable to attributing interests in foreign superannuation schemes and life insurance policies.

No effective redemption facility

The RAM is intended to ease cashflow pressure from a FIF liability on illiquid pre-migration holdings. Interests should therefore only be ineligible if the redemption facility available provides effective, realisable liquidity. While what constitutes an effective redemption facility has not been defined, the policy intent is that it should provide effective access to arm's-length market value within a reasonable timeframe and volume, and without issuer discretion or pricing formulae that materially understate value. If the redemption facility is subject to conditions such that it renders the attributing interest in a FIF functionally illiquid, then the interest is eligible to be a RAM interest, provided the interest satisfies all other criteria for being a RAM interest.

Shares in entities that derive 80% or more of their value from non-eligible shares

This criterion is intended to prevent the RAM from applying to interests in mutual funds. However, for practical reasons, the RAM taxpayer is not expected to verify whether any indirectly held interests also satisfy this requirement.

Example 15: Entities that derive 80% or more of their value from non-eligible shares

Lloyd is a RAM taxpayer and holds interests in Forger Co, an unlisted foreign company. Forger Co holds interests in Quill Co, Parchment Co, and Ink Co.

For Lloyd's interests in Forger Co to satisfy the requirement under section EX 46B(5)(a)(v), Quill Co, Parchment Co, and Ink Co must be unlisted foreign companies and Lloyd and Forger Co must not have access to an effective redemption facility for their interests in those three companies.

Lloyd is not required to consider whether any of Quill Co, Parchment Co, and Ink Co also meets the requirement under section EX 46B(5)(a)(v).

Excluded RAM interests

Interests when a different calculation method is required (for example, the taxpayer must use the comparative value method or the deemed rate of return method for non-ordinary shares) or when the taxpayer chooses to apply the attributable FIF income method are excluded RAM interests. These are not treated as RAM or extended RAM interests, so the taxpayer is not precluded from applying the RAM or extended RAM to the rest of their portfolio.

Definition of RAM taxpayers

Only eligible taxpayers, defined as RAM taxpayers, can elect to apply the RAM on their qualifying FIF interests. These are intended to be recent migrants and returning New Zealanders who have been away for a relatively long period. RAM taxpayers are defined as:

- A natural person who:
  - became a "New Zealand resident" (as defined under the ITA), and is neither treated as a non-resident under a double tax agreement nor is a transitional resident, on or after 1 April 2024, and
  - was a "non-resident" (including a non-resident under a double tax agreement) for at least five years before meeting the above requirement.
- A family trust whose principal settlor meets the criteria outlined above.

The amendments are aimed at new migrants. This means a person is not eligible if they became a New Zealand resident before 1 April 2024 and is not a transitional resident. However, a person who

was a transitional resident and whose transitional residency ends on or after 31 March 2024 is eligible, even though they became a New Zealand resident before 1 April 2024.

Example 16: Natural persons

Anya moves to New Zealand on 1 July 2022 and becomes a transitional resident. She had not previously been a resident of New Zealand. Her transitional resident status expires on 31 July 2026. While Anya became a New Zealand resident before 1 April 2024, she is eligible for the RAM because she was a transitional resident on that date.

On 1 August 2026, following the expiry of her transitional resident status, Anya is eligible for the RAM because she had been a non-resident for at least five years before becoming a New Zealand resident on 1 July 2022.

Family trusts (RAM)

A family trust is eligible to apply the RAM if the principal settlor is eligible to apply the RAM. This is a one-time test applied at the time the trust chooses to use the RAM, so the family trust remains eligible even if the principal settlor's eligibility changes in the future.

Example 17: Family trusts

Amy left New Zealand on 1 April 2010 and returns to New Zealand on 1 May 2023, becoming a New Zealand resident with transitional resident status. On 30 June 2025, she settles a trust in New Zealand with her children as the beneficiaries.

Despite being a transitional resident at the time of settling the trust, Amy qualifies for the RAM because she was a non-resident for at least five years before moving back to New Zealand and became a non-transitional resident New Zealand resident after 1 April 2024. On this basis, the trustees are eligible to use the RAM from the date the trust is settled.

Amy later leaves New Zealand and becomes non-resident. However, if the trustees have already elected to use the RAM, they may continue to do so.

"Extended" RAM rules

In addition to the above rules, the amendments also set out that an eligible person may apply the RAM to all foreign shares if they are generally liable to tax in another country on the disposal of those shares on the basis of their citizenship or a right to work and live in that country (extended RAM). This means a person subject to concurrent taxation in another country that has a capital gains tax remains eligible for the extended RAM even if they benefit from a special exemption regime in that other country for a particular sale of their shares. In contrast, a person who is subject to concurrent taxation in another country on the basis of citizenship is not eligible for the extended RAM if that other country does not tax the sale of shares (for instance, because they do not have a

capital gains tax regime). The extended RAM only applies if the person is subject to concurrent taxation in another country with which New Zealand has a tax treaty.

Example 18: Generally liable for tax

Guy is a New Zealand tax resident who has recently migrated from the US. Guy is a US citizen and is subject to US taxation on his worldwide income, regardless of his residence in New Zealand.

Guy owns shares that qualify for a 100% exclusion of tax on capital gains on certain shares in the US. Despite the exemption, taxpayers are generally required to pay tax on gains arising from the disposal of shares in the US, so Guy remains eligible for the extended RAM in respect of those shares despite also qualifying for an exemption in the US.

Family trusts (extended RAM)

The amendments set out that a family trust is eligible for the extended RAM if the principal settlor is eligible for the extended RAM. However, if the principal settlor subsequently loses their eligibility for the extended RAM, then the family trust will transition out of the extended RAM regime to the ordinary RAM regime (see "Deemed disposal" below).

The family trust loses its eligibility for the extended RAM if the principal settlor loses eligibility due to no longer being subject to concurrent taxation or death. However, the family trust does not lose its eligibility for the extended RAM just because the principal settlor leaves New Zealand (see "Multiple entries and departures" below).

Multiple entries and departures

A person who is eligible for the RAM may subsequently leave and return to New Zealand.

The amendments set out that RAM interests remain eligible for the RAM if a person leaves then subsequently returns to New Zealand. The cost base of those shares does not change.

The eligibility of any FIF interests obtained while a person is non-resident depends on whether the person newly qualifies for the RAM (that is, whether they have been non-resident for five years or more) upon their return to New Zealand.

Example 19: Returning to New Zealand

Hemi grew up in New Zealand but moves abroad in 2015 and later starts working for Company A. Hemi receives shares in Company A, an unlisted company, as part of his salary package. In 2025, Hemi decides to come back to New Zealand.

Hemi has been a non-resident for over five years, so he is eligible to apply the RAM to his shares in Company A. He elects to do so.

In 2030, Hemi leaves New Zealand again. This time to work for Company B. Hemi moves back to New Zealand in 2033.

Hemi was a non-resident for less than five years this second time, so he is not eligible for the RAM with respect to any foreign shares he obtained between 2030 and 2033. However, his shares in Company A remain eligible for the RAM.

This does not apply to extended RAM taxpayers. The person's eligibility for the extended RAM is retained regardless of the length of time away from New Zealand provided they continue to remain subject to concurrent taxation.

Example 20: Returning to New Zealand – extended RAM

Juan is a US citizen whose family moved to New Zealand when he was young. Juan leaves New Zealand and becomes a non-resident in March 2018. He later returns to New Zealand and becomes a New Zealand resident in May 2024. Before he left New Zealand, he obtained a number of interests (Interests A). During his time overseas, he acquired several new interests (Interests B).

Upon his return in May 2024, Juan is eligible for the extended RAM. This is because he has been a non-resident for over five years and is generally liable to tax on the disposal of shares in another country on the basis of his citizenship.

Juan's interests from before he became a non-resident (Interests A) are eligible for the extended RAM because extended RAM interests apply to all foreign shares provided their disposal is subject to tax in another jurisdiction. Similarly, the interests he acquired while he was a non-resident (Interests B) are also eligible for the extended RAM.

Shortly after his return, Juan has to leave again and becomes a non-resident in July 2025. This second departure was short term, and he comes back to New Zealand in February 2028. During this second period of absence, Juan obtained further interests in foreign companies (Interests C).

The RAM treatment of his interests from before his second departure is preserved. This means Interests A and B remain eligible for the extended RAM on his return in 2028. Juan's newly acquired interests (Interests C) are also eligible for the extended RAM because once he has qualified for the extended RAM, Juan does not lose his eligibility because of a brief subsequent period of non-residence.

If a person who is eligible for the extended RAM leaves New Zealand, loses their eligibility for the extended RAM (because they are no longer subject to concurrent taxation), and subsequently returns to New Zealand, they will need to qualify for the RAM (they must have been a non-resident for a period of at least five years) to be able to apply the RAM on any shares obtained during their period of non-residence.

The RAM treatment of shares obtained before the person's departure may not be preserved in this instance.

When an extended RAM taxpayer who loses their eligibility for the extended RAM while they are non-resident subsequently returns to New Zealand, any shares obtained before their departure that meet one or more of the following characteristics are no longer eligible for the RAM:

- The share is listed on a stock exchange.
- There is a redemption facility for market value in relation to the share.
- The share is in an entity that derives 80% or more of its value from shares that meet one or more of the above (listed on stock exchanges or have facilities for redemption for market value).

Any shares obtained before the person's departure that do not meet any of the characteristics above remain eligible for the RAM upon the person's return.

A person who is no longer subject to concurrent taxation in another jurisdiction is no longer eligible for the extended RAM and a deemed disposal occurs (refer to "Moving out of the extended RAM" below). The relevant shares are deemed to have been disposed of on the day before the renunciation takes effect. If the person is a non-resident on that date, then no New Zealand tax is payable on this deemed disposal. Those shares are then deemed to have been reacquired on the day the FIF rules apply to them again.

Example 21: Returning to New Zealand – extended RAM to RAM

Kain is a US citizen who grew up in New Zealand. Kain leaves New Zealand and becomes a non-resident in March 2018. At the time of departure, Kain owns a number of foreign interests (Interests A).

He later returns to New Zealand and becomes a New Zealand resident in May 2024. During his time overseas, he acquired several new interests (Interests B).

Shortly after his return, Kain decides to leave again and became a non-resident in July 2025. In August 2026, Kain renounces his US citizenship while overseas. Kain returns to New Zealand in February 2028. During this second period of non-residence, Kain obtained further interests in foreign companies (Interests C).

Kain's Interests A and B are eligible for the RAM if the shares are in unlisted foreign companies, no effective redemption facilities for market value are available, and they are not in an entity that derives 80% or more of its value from shares that are listed or have a redemption facility for market value. All other shares are ineligible for the RAM and Kain needs to apply one of the existing FIF income calculation methods upon his return.

Kain's Interests C are not eligible for the RAM because Kain is no longer eligible for the extended RAM and does not meet the five-year non-resident test for the RAM.

Mechanics of RAM

Election

The RAM is elective. An eligible person may elect to apply the RAM in the first year they have FIF income (or loss) as defined under section CQ 5 (or DN 6) of the ITA. This is generally the later of the expiry of their transitional resident status and when they exceed the $50,000 de minimis threshold. If the person elects to apply the RAM, the method applies on a portfolio basis to all eligible shares, except for excluded RAM interests (see "Excluded RAM interests" above). This means that the person who has elected to apply the RAM must choose a different calculation method for any other FIF interests that are not eligible for the RAM.

The amendments set out that a person who chooses to apply the RAM may later elect out of the method and use one of the existing FIF income calculation methods. This will trigger a deemed disposal of all shares to which the RAM applied (see "Deemed disposal" below). However, if the person does not apply an alternative method, the RAM will continue to apply to a RAM interest even if it no longer meets the eligibility criteria.

Once one of the existing methods is applied, whether by election or by default, the person cannot subsequently choose to apply the RAM. However, this does not apply if taxpayers had to use another FIF calculation method before RAM became available in the 2026 income year. Individuals whose transitional residence expires in the 2024–25 income year may have FIF income or loss in that income year. This will be the first year in which they meet the tests in sections CQ 5 or DN 6, but they cannot choose to apply the RAM because it is not available until the 2025–26 income year. Under these circumstances, the individual is treated as having met the tests in section CQ 5 or DN 6 for the first time in the 2025–26 income year under new section EZ 32H, so they may choose to apply the RAM to their RAM interests from the 2025–26 income year onwards provided they meet the other criteria for being a RAM taxpayer.

Formula for determining gains or loss

The default formula for determining the amount of gain or loss from the disposal of a RAM interest is:

(disposal proceeds – cost – foreign accruals) x 0.7.

"Disposal proceeds" is the amount the RAM interest is sold for (or deemed to be sold for in a deemed disposal situation (see "Deemed disposal" below.).

The "cost" is the amount incurred in acquiring the interest. However, this will be updated to fair market value when there is a deemed disposal and reacquisition of the interest. For example, when an attributing interest in a FIF subsequently meets the criteria for being a RAM interest, there is a deemed disposal and reacquisition of the interest as the RAM taxpayer transitions from a different calculation method to the RAM. It should be noted that there is no deemed disposal and

reacquisition of the RAM interest on migration to New Zealand or at the end of transitional residence.

"Foreign accruals" is the gain or loss that accrues while the RAM interest is not taxable (for example, because the taxpayer was a non-resident or a transitional resident) and when the interest was taxed under a different calculation method (for example, an interest that was previously not a RAM interest, which can occur, for example, when a foreign listed share subsequently becomes unlisted).

Example 22: Calculating gains and losses under RAM

Bartz is a foreign national who acquires 100 shares in an unlisted foreign company, Boko Co, for $5 per share.

Bartz moves to New Zealand on 6 April 2026 and becomes a New Zealand resident. His transitional residence also starts on this date. At the end of his transitional residence on 30 April 2030, Bartz determines he is a RAM taxpayer and elects to apply RAM on his interests in Boko Co. The value of the Boko Co shares on 1 May 2030 is $11 per share.

On 2 April 2031, Bartz sells his shares in Boko Co for $16 per share.

Bartz's disposal proceeds are $1,600 ($16 x 100).

Bartz's cost is $500 ($5 x 100).

Bartz's foreign accruals are $600 ((11-5) x 100).

Bartz's FIF income for the 2030–31 income year is $350 ((1,600 – 500 – 600) x 0.7).

The valuation required for determining the "foreign accruals" must be obtained by the later of:

- 12 months from the date of acquisition or when the RAM is applied to the interest (whichever is later), or
- the due date of the person's first return in which they apply the RAM.

Example 23: Obtaining market valuation

Lenna moves to New Zealand on 22 January 2022 and becomes a transitional resident. Her transitional resident status expires on 31 January 2026. After her transitional resident status expires, Lenna determines that the FIF rules apply and elects to apply the RAM. Because she has elected to apply the RAM, she needs to obtain the market value of all eligible shares as at 1 February 2026 (unless she decides to use the time-based apportionment method discussed after this example).

Lenna's income tax return for the 2025–26 tax year is due by 7 July 2026. Twelve months from the date the RAM started applying to her is 1 February 2027. Therefore, Lenna needs to obtain a market valuation for all RAM interests by 31 January 2027.

If Lenna's income tax return is due by 31 March 2027, because she has engaged a tax agent to file her return, then that is the date by which Lenna needs to obtain a market valuation for all RAM interests.

If the market value cannot be determined except by independent valuation, and the person chooses not to get one, the amendments allow the person to use the time-based apportionment method. This method spreads the actual gain or loss across the period of ownership and only the gain or loss apportioned to the period that the person is a New Zealand resident (not including any period of transitional residence or non-residence us a double tax agreement) is taxable.

Example 24: Time-based apportionment method

Clive acquires some shares on 15 June 2015 for NZ$100,000. He moves to New Zealand on 23 August 2023 and becomes a transitional resident, which expires on 31 August 2027. Once his transitional resident status expires, the FIF rules start to apply. Clive chooses to apply the RAM. The value of the shares is not readily available, and Clive chooses not to obtain an independent valuation. On 29 October 2029, he sells those shares for NZ$200,000.

Clive's total gain on the sale of the shares is NZ$100,000. The total number of days he has owned the shares is 5,251 (15 June 2015 to 29 October 2029, inclusive of both dates). The total number of days Clive was a resident in New Zealand, not including days spent as a transitional resident, is 790 (1 September 2027 to 29 October 2029, inclusive of both dates). The total amount of the gain attributable to New Zealand is therefore:

net gain ($100,000) x period of ownership while New Zealand resident (790) ÷ total period of ownership (5,251) = $15,044.

Losses

Any loss on disposal of a RAM interest can only be set off against gains on disposal of other RAM interests and dividend income derived from RAM interests.

Example 25: Losses

Kiri has interests in three overseas companies, A, B, and C, to which she elects to apply the RAM.

In the 2025–26 income year, she decides to sell her interests in A for a loss of $300 and her interests in B for a gain of $100. She also derives a dividend of $100 from C.

Her FIF income for the year is the gain on disposal ($100) and dividend derived ($100).

Gains and losses on disposal are discounted by 30%, so Kiri's taxable FIF income for the year is calculated as follows:

70% of gain ($100 x 70%) + dividend derived ($100) – 70% of loss ($300 x 70%) = -$40.

Kiri's loss on disposal is greater than her FIF income, so she has no tax liability for the year in relation to her FIF interests.

Ring-fencing of losses

In an income year when the losses are greater than the income, a person may deduct up to the amount of their FIF income from RAM interests. The excess losses are available to be carried forward to be set off against future FIF income from RAM interests.

Example 26: Ring-fencing of losses

Following on from the facts in Example 25, the extra resulting $40 loss is then carried forward.

In the 2026–27 income year, Kiri decides to sell her interest in C for a gain of $200. Her taxable FIF income for the year is calculated after deducting her carried-forward loss as follows:

70% of net gain ($200 x 70%) – carried forward loss ($40) = $100.

Deemed disposal

There are three scenarios in which the amendments deem a disposal at market value:

- electing out of the RAM
- moving out of the extended RAM, and
- leaving New Zealand.

Electing out of RAM

Whenever a person applying the RAM subsequently elects to apply a different method, the amendments deem a disposal at market value of all RAM interests. The new method will begin applying from the first day of the following income year, while the disposal is deemed to take place immediately before the start of that income year.

Example 27: Electing out of RAM

Vincent has been applying the RAM on all eligible foreign shares. In August 2027, he decides to stop applying the RAM and decides to use the cost method going forward. Vincent has a standard balance date and is deemed to have disposed of his shares at market value on 31 March 2028 and accounts for this in his 2027–28 income tax return. For the 2028–29 income year, Vincent will apply the cost method in accordance with the current rules.

Share loses eligibility

When a foreign share loses its eligibility for the RAM (for example, when an unlisted share becomes listed), the taxpayer is allowed to continue applying the RAM to that interest. They may subsequently elect to take the interest out of the RAM. However, interests that have been taken out of the RAM cannot be brought back under the RAM unless the interests later satisfy the criteria for being RAM interests again.

Moving out of extended RAM

As discussed above in "Multiple entries and departures", When an extended RAM taxpayer is no longer eligible to be an extended RAM taxpayer, but is eligible for and chooses to apply the RAM, they are deemed to have disposed of all shares that have one or more of the following characteristics:

- The share is listed on a stock exchange.
- There is an effective redemption facility for market value in relation to the share.
- The share is in an entity that derives 80% or more of its value from shares that meet one or more of the above (listed on stock exchanges or have facilities for effective redemption for market value).

Any other shares to which the extended RAM applied, including shares acquired while the taxpayer was a New Zealand resident, continue to be subject to the RAM.

The extended RAM ceases to apply if the person is no longer generally liable to tax in another country on the disposal of their shares on the basis of their citizenship or right to work and live in that country. For example, if the person renounces their citizenship in the other country.

The disposal is deemed to occur on the day before the person becomes ineligible for the extended RAM. For example, if the person renounces their citizenship in the other country, a disposal is deemed to occur on the day before they renounce their citizenship. The person is deemed to immediately reacquire those interests after ceasing to be an extended RAM taxpayer.

Example 28: Transitioning from extended RAM to RAM

Rosa moves to New Zealand in June 2022. Her transitional resident status expires in June 2026 and the FIF rules apply following this expiry. Rosa is a citizen of a country that taxes its citizens on their worldwide income regardless of their residence, which includes a capital gains tax on the disposal of shares. As such, Rosa is eligible for the extended RAM, which she chooses to apply. On 16 February 2028, Rosa completes the formalities necessary for her to give up her citizenship in the other country. The renunciation of her citizenship takes effect on this date.

At the time of the deemed disposal, Rosa holds the following foreign shares:

- Units in an index fund that she has been routinely investing in since before her migration to New Zealand. She has continued her routine investment in this fund since becoming a New Zealand tax resident.
- Shares in a foreign business venture, which she got involved in after her migration to New Zealand. The company is not listed.

The disposal is deemed to occur on 15 February 2028. The treatment of each type of share is as follows:

- Rosa's investment in the index fund derives more than 80% of its value from listed shares and so does not meet the eligibility rule for the RAM. There is a deemed disposal of these shares.
- Her shares in the unlisted company remain eligible for the RAM despite the shares being acquired after Rosa became a New Zealand tax resident. There is no deemed disposal of these shares.

Leaving New Zealand

When a person ceases to be a New Zealand resident, the person is treated as having disposed of their RAM interests immediately before the change in residence at market value. This is discussed in more detail below (see "Deferred realisation tax").

Deferred realisation tax

When a person who is applying the RAM leaves New Zealand, they are deemed to have disposed of all RAM interests for market value immediately before they become non-resident.

The deemed disposal is reversed and disregarded for RAM interests not sold within three years of them leaving New Zealand, or by the time the person becomes a New Zealand resident again if they return within three years.

The gains or losses that arise from the deemed disposal crystalises only when the underlying RAM interest is sold. The amount that the RAM interest is sold for is not relevant for the purposes of calculating the person's tax liability in relation to the deferred realisation tax.

Example 29: Deferred realisation tax

Luke is a RAM taxpayer who decides to emigrate to Australia. He leaves New Zealand on 4 May 2026 and self-assesses this to be the last day he is a New Zealand tax resident. At the time of his departure, he held RAM Interests A, B and C.

Luke is deemed to have disposed of all his RAM interests on 4 May for fair market value, which results in the following gains and losses:

- Interest A – $66 loss

- Interest B – $1,138 gain
- Interest C – $2,187 gain.

On 25 May 2027, Luke sells Interest A for a $421 gain and Interest B for a $325 gain. This is within three years of his departure so Luke's loss and gain from the deemed disposal of Interests A and B crystalises for a net tax liability of $1,072 (the $1,138 gain for Interest B less the $66 loss for Interest A as at 4 May). Despite selling Interests A and B for different amounts to what they were deemed to have been disposed for, the sales proceeds are ignored and only the shares' market value at the time of the deemed disposal (that is, when Luke became non-resident) is used in determining Luke's tax liability for the purposes of the deferred realisation tax.

On 5 May 2029, three years from the date Luke ceased to be a New Zealand resident, Luke's deemed disposal of Interest C is reversed. Assuming Luke remains a non-resident for New Zealand tax purposes, there are no further New Zealand tax obligations in relation to the RAM and the deferred realisation tax if Luke later sells Interest C.

If there is a deemed disposal under this scenario, the default date for the crystalised tax is the person's terminal tax date. Debit use-of-money-interest is not charged on the deferred realisation tax to the extent it arose before the person's terminal tax date.

Example 30: Due date for deferred realisation tax

Using the same facts as Example 29, Luke's RAM interests are deemed to be disposed of on 4 May 2026, which is part of the 2026–27 income year. Luke sells Interests A and B on 25 May 2027. Although the gain and loss from the deemed disposal crystalises in the 2026–27 income year, Luke is given a new due date for paying this tax. This is tied to his terminal tax due date. In this instance, Luke is not using a tax agent for New Zealand tax purposes, so the deferred realisation tax is due by 7 February 2028. No penalties or use-of-money-interest will accrue until after this date.

Time bar

The time bar normally applies four years from the end of the tax year in which the taxpayer provides the tax return. To allow the deferred realisation tax to be administered, the time bar will apply after four years have passed from the end of the year in which the RAM interests are disposed of. This change to the application of the time bar only applies in relation to the deferred realisation tax. The usual time bar rules continue to apply to the rest of the income tax return for the year of departure.

Non-market transfers (rollover relief)

The ITA provides rollover relief if assets are transferred to a spouse or life partner pursuant to a relationship property agreement or on death. In those cases, the transfer does not trigger a tax

liability and the transferee steps into the shoes of the transferor for tax purposes (for example, the cost of the shares for the transferee is deemed to be the cost of the shares for the transferor). In the event a person receives foreign shares under circumstances when rollover relief is provided, the amendments allow the recipient to apply the RAM if the transferor applied the RAM, even if the recipient is not otherwise eligible (for instance because they have never left New Zealand). If the recipient does choose to apply the RAM, then there is no deemed disposal triggered by the transfer. If the person receiving those shares chooses to account for them under one of the currently existing methods, then a deemed disposal occurs (see "Deemed disposal" above).

If the person is eligible for the RAM in their own right, and they have previously chosen not to apply the RAM on their shares, they cannot then choose to apply the RAM on interests they receive via non-market transfer. A deemed disposal occurs in this instance.

Non-market transfers of shares when rollover relief does not apply are treated as a deemed disposal for market value.

Corporate reorganisation

The general rules continue to apply in corporate reorganisations. This means that the RAM taxpayer is treated as disposing of their RAM interests even if the disposal occurs as part of a corporate reorganisation.

However, for extended RAM interests, section EX 56B(16) provides rollover relief for corporate reorganisation by aligning the New Zealand tax treatment of such transactions with that of the other jurisdiction to which extended RAM taxpayers are concurrently liable for tax. Section EX 56B(16) provides rollover relief for these types of corporate transactions because the individual is generally in the same economic position after the corporate reorganisation relative to their position before the reorganisation.

Example 31: Rollover relief for corporate reorganisation

Levi is an extended RAM taxpayer and owns shares in a US company (Target Co). There is a merger when Target Co is acquired by another US company (Acquirer Co). Levi receives shares in Acquirer Co in exchange for his shares in Target Co.

If this share-for-share exchange is a non-taxable event in the US, because the exchange is covered under the US's rollover relief provisions, then this exchange is also not taxable in New Zealand under the RAM.

When the reorganisation is taxable in the other jurisdiction, section EX 56B(16) also aligns the New Zealand tax treatment with that jurisdiction.

Example 32: Alignment with other jurisdiction for concurrent taxation

Alice is a US citizen who has recently become a New Zealand tax resident. Alice is subject to US taxation on her worldwide income, regardless of her residence in New Zealand.

Alice owns shares in a US company. That company launches a share buyback scheme.

If the scheme is treated as a share disposal and subject to capital gains tax in the US, but is treated as a dividend in New Zealand, Alice is also treated as having disposed of her shares under the RAM.

Alternatively, if rollover relief is available in the US and the buyback is not taxed, then the transaction will also be treated as not taxable in New Zealand.

The provision is not intended to apply to align with the other jurisdiction's concessionary regimes.

Share lending arrangements

When a RAM taxpayer (share supplier) lends their shares to another person (share user) under a share-lending arrangement, the amendments deem the share supplier to still hold the lent shares, unless the share user and the share supplier are related or the share-lending arrangement is (or is part of) a structured arrangement.

Thin capitalisation settings for infrastructure investment

Thin capitalisation settings for infrastructure investment

Sections CH 10C, FE 2(1BA), FE 7C, and YA 1 of the Income Tax Act 2007

Summary of amendment

The amendment introduces a new thin capitalisation rule that applies specifically to infrastructure investment. The new rule allows an "eligible infrastructure entity" to deduct interest on more debt than is usually allowed under the standard thin capitalisation rules without a thin capitalisation income adjustment, but only for debt from unrelated third parties, when the lenders' claims are limited to the assets and income of that entity.

Effective date

The new rule takes effect on 1 April 2026 and applies from the 2026–27 income year.

Background

Foreign investors can choose to fund their New Zealand investments with either equity or debt. However, when compared with the non-deductible treatment of dividends on equity investment, the tax-deductible treatment of interest on debt provides an incentive for them to invest into New Zealand through debt rather than equity.

The thin capitalisation rules protect the New Zealand tax base by preventing foreign investors from allocating excessive debt to New Zealand to reduce their tax liability. This is done by limiting the amount of deductible debt (debt with tax deductible interest) that will be recognised for tax purposes in New Zealand. Generally, a thin capitalisation income adjustment would effectively deny some interest deductions if the New Zealand group's debt percentage (that is, the ratio between the debt and the assets' value after subtracting non-debt liabilities) exceeds 60%, and 110% of the multinational group's worldwide debt percentage.

The rules were relaxed in 2018 to provide an exemption from the thin capitalisation rules for public private partnership (PPP) infrastructure projects. The specific exemption recognised that the standard thin capitalisation rules might not work well for PPP projects because they can be very highly geared commercially. This allowed these projects to take on debt exceeding the limits imposed by the general rules without triggering a thin capitalisation income adjustment, provided the debt is third-party debt with limited recourse (that is, it is fully supported by the project with no recourse to the investors). However, this treatment applies only to PPP infrastructure projects with the Crown or a public authority. It does not apply to other infrastructure investments.

Although the thin capitalisation rules generally worked as intended, they could be too rigid, particularly for foreign investment in infrastructure not covered by the PPP exemption. High levels of third-party debt (exceeding 60%) can arise in some infrastructure projects and businesses because they tend to be capital intensive but usually have stable cashflows backed by long-term contracts or service agreements. Previously, some interest expense deductions might have been denied even though the levels of debt might not be considered excessive commercially. This could raise funding costs and disincentivise such investment.

The primary aim of the new rule is to address concerns with the thin capitalisation rules that might be hindering foreign investment in New Zealand's infrastructure, while still preserving the integrity of the overall regime.

Key features

The Government has agreed to a targeted exemption to the thin capitalisation rules, specifically for infrastructure investment (including new infrastructure projects as well as existing infrastructure businesses), aimed at mitigating a potential impediment to foreign investment in New Zealand's infrastructure that arose under the general thin capitalisation rules.

An entity that otherwise breaches the standard thin capitalisation thresholds can elect to apply the new rule if the entity:

- is a New Zealand company controlled by a foreign investor or a foreign company operating in New Zealand through a partnership or a fixed establishment
- carries on a business or project primarily consisting of creating, operating, maintaining, or upgrading qualifying infrastructure assets in New Zealand
- owns assets that are entirely, or almost entirely, attributable to such activities, and
- has no assets situated outside New Zealand (except in limited circumstances), nor a fixed establishment or interest in an entity, partnership, or trust outside New Zealand.

An entity electing to apply the new rule will be able to deduct interest expenses on its debt, without a thin capitalisation income adjustment, if the debt:

- is applied to the eligible infrastructure entity's business or project
- is from a genuine third party and does not have any equity-like features, and
- has recourse only to the assets and income of the entity.

Any interest on debt that does not meet these requirements (such as debt from related parties) will not be deductible when the entity elects to apply the new rule.

These requirements are important for integrity reasons. To ensure the entity's debt is still at a commercially reasonable level for its infrastructure assets in New Zealand, the entity needs to be

capable of supporting the debt on a standalone basis (without any further support from its investors) relying on those New Zealand infrastructure assets and activities.

Detailed analysis

The new rule in new section FE 7C of the Income Tax Act 2007 is generally available (subject to meeting the requirements to apply the rule) to:

- a New Zealand company controlled by a non-resident company, trust, or individual person
- a non-resident partner (company) of a New Zealand limited partnership, or
- a non-resident company operating in New Zealand through a fixed or permanent establishment.

The new rule is not available to a New Zealand company owned by a group of non-residents ("non-resident owning body"). This is because, even prior to the introduction of the new rule, the interest deductions of such a company would not have had a thin capitalisation income adjustment applied when the debt was from a genuine third party and the shareholders were not providing a guarantee for that debt.

The new rule is also not available to New Zealand-owned companies with foreign subsidiaries (that is, outbound thin capitalisation).

To apply the new rule for a given income year, an entity must:

- be an "eligible infrastructure entity"
- have "qualifying infrastructure debt"
- elect to apply the new rule, and
- not elect to apply the PPP exemption.

Eligible infrastructure entity

To be an "eligible infrastructure entity", the entity's principal operation must be carrying on a business or a project consisting of creating, operating, maintaining, or upgrading "qualifying infrastructure assets" in New Zealand that it owns. In addition, the entity may also undertake any other activities that are ancillary to or facilitate such activities.

Whether an activity is considered "ancillary" or "facilitative" depends on specific facts and circumstances. However, the principal business of the entity has to be creating, operating, maintaining, or upgrading "qualifying infrastructure assets" that it owns. The ancillary or facilitative activities are intended to cover supporting activities.

Example 33: Ancillary or facilitative activities

An entity whose primary business is sub-leasing retail units in shopping malls, running a hotel chain, or operating a car park will not qualify to apply the new rule.

However, an entity that is registered to operate an airport may sub-lease retail units in the terminal, buildings to a hotel chain, and land to a car park operator. None of them will be provided if there is no airport. Therefore, they can be considered ancillary or facilitative to operating the airport.

If the operator also holds other land away from the airport through which it leases a shopping mall or commercial properties, this will not generally be considered ancillary and facilitative to operating the airport.

To qualify as an "eligible infrastructure entity", the entity must also satisfy a value test assessed based on an appropriate balance sheet of the entity. The starting point for an appropriate balance sheet is the entity's statement of financial position in its annual financial statements.

If the entity is part of a consolidated group's financial statements, then an appropriate balance sheet will be the individual balance sheet of the entity that forms part of the consolidated group's financial statements. To arrive at the individual balance sheet of the entity, the consolidated accounts accounting standards must be applied for the purposes of determining the carrying value of all its assets, liabilities, and equity.

The value test requires that all, or all but an insignificant portion (at least 95% of the total value of the entity's assets), of the entity's assets are used in, or for the purposes of, the eligible infrastructure activities listed above (including the ancillary or facilitative activities). The test is intended to ensure that the debt of the entity is supported primarily by assets that are attributable to such activities, recognising that such an entity's balance sheet would also include other assets that are not, in themselves, infrastructure assets but are essential in carrying out the infrastructure activities. In that regard, projects aimed at constructing new infrastructure assets should qualify provided a majority of their resources are dedicated to the creation of these assets. This is the case despite the fact the entity's balance sheet may not yet include the infrastructure assets themselves.

For the purpose of the value test, assets used in, or for the purposes of, an infrastructure business or project can include, among other things, staff accommodation within a remote electricity generation facility, resource consents to build and operate an infrastructure asset, or hedging instruments used to manage foreign currency or interest rate risks. They can also include goodwill related to the eligible activities.

The new rule applies only to entities whose principal operations involve conducting the eligible infrastructure activities in New Zealand. Therefore, in addition to the above criteria, an entity will also not be an "eligible infrastructure entity" if the entity:

- has a permanent establishment or an interest in an entity, partnership, or trust outside New Zealand, or
- owns an asset situated outside New Zealand, unless the asset is held in relation to the eligible infrastructure activities described above, and is either minor, situated outside New Zealand temporarily (no more than six months cumulatively for the particular asset) or for maintenance (in which case, the six-month limit does not apply), or a hedging instrument.

This requirement is intended to be read narrowly because it is important that an "eligible infrastructure entity" is able to support the level of debt on a standalone basis relying on its New Zealand infrastructure assets and activities. It should not be restrictive for infrastructure projects when a special purpose entity has been established for a particular project in New Zealand (like a new solar farm development). However, it means that infrastructure businesses with foreign operations or investments will not qualify for the new rule (unless those assets are held in another entity that is not owned by the relevant New Zealand infrastructure entity or group).

Some flexibility has been provided by allowing the entity to have some foreign assets that are related to eligible infrastructure activities in New Zealand, but only in some specific circumstances, such as when the value of the asset is "minor" in relation to the total assets of the entity. Whether a foreign asset is related to eligible infrastructure activities and "minor" depends on the circumstances, but one example could be a small balance in a foreign bank account (like a United States clearing account for United States private placement debt incurred for the purpose of constructing New Zealand infrastructure assets). Another example could be a laptop used by an employee while travelling abroad for a few days.

Example 34: Assets satisfying the value test

The balance sheet of an electricity lines company (Electrify Co) as at 31 March 2027 includes:

	$000	**$000**
Assets		
Cash and cash equivalents held in New Zealand	800	
Cash in foreign bank account held to make purchases for purpose of infrastructure business in New Zealand	60	
Trade and other receivables from carrying on the infrastructure business	9,000	
Network systems (electricity distribution and transmission assets, including the land on which they are placed)	200,000	
Equipment related to maintaining, monitoring, and repairing the electricity and transmission assets, such as tools, spare parts, etc	20,000	
Other land and buildings related to infrastructure assets, including a warehouse storing repair equipment and an office building where the infrastructure business is managed	100,000	
Office plant and equipment related to the infrastructure business, including laptops, office equipment, and software for office workers managing the infrastructure business	50	
Intangible assets – resource planning consent for the infrastructure project	200	
Investment assets – interest in a shopping mall in Newmarket, Auckland	100,000	
Total assets		**430,110**
Liabilities		
Trade and other payables	8,000	
Employee benefits	3,000	
Borrowings	350,000	
Deferred tax liability	30,000	
Total Liabilities		**391,000**

Equity		
Share capital	12,000	
Accumulated surplus	27,110	
Total equity		**39,110**

In relation to the assets held by the business:

- The network systems are the qualifying infrastructure assets because they are tangible assets located in New Zealand and they provide, or are integral to providing, the energy needs of the public.
- The cash amounts in New Zealand, the trade and other business receivables, the equipment used in maintaining, monitoring and repairing the system, the plant and equipment, other land and buildings, and the resource consent are not themselves qualifying infrastructure assets. However, they are assets used in or held for the purpose of the New Zealand infrastructure business, so they are included in assets that qualify to meet the 95% value test.
- The overseas bank account is not located in New Zealand. However, it is related to the eligible infrastructure activities, and it is considered minor. Therefore, it will not stop the person from applying the new rule. The bank account is still included in infrastructure assets for the purposes of the 95% test because it is held for the purpose of the New Zealand infrastructure business.
- The investment asset (the interest in a shopping mall) is neither a qualifying infrastructure asset nor considered to be used in, or for the purpose of, the New Zealand infrastructure business. Accordingly, it does not qualify to meet the 95% value test.

In this example, the assets owned by the entity that are not attributable to the infrastructure business (the interest in a shopping mall) make up more than 5% of the entity's total assets. Therefore, the entity is not eligible to apply the rule.

However, the entity will be eligible to apply the new rule if its interest in the shopping mall was held in another group entity that it did not own (directly or indirectly), provided the other criteria to apply the rule are met.

Qualifying infrastructure asset

In general, an entity needs to own a "qualifying infrastructure asset" to qualify for the rule, except when the asset is being created. The asset must also be located in New Zealand.

The new definition of "qualifying infrastructure asset" contains a non-exhaustive list of examples, which includes:

- transport infrastructure (for example, roads, rail, ports, airports, ferries)

- energy infrastructure (for example, electricity generation, transmission, and distribution assets)
- water infrastructure (for example, water supply, wastewater, and stormwater systems)
- telecommunications infrastructure (for example, fibre networks, data centres, and communications towers)
- waste infrastructure (for example, recycling facilities and landfills), and
- social infrastructure (for example, hospitals, schools, libraries, prisons, large-scale student accommodation or similar public facilities).

A "qualifying infrastructure asset" also includes any other tangible asset located in New Zealand that provides, or is integral to providing, essential services to the public or a class of users on a shared-use basis, that is similar in nature to the types of assets listed above.

The non-exhaustive list is intended to cover the assets that will typically be infrastructure. It generally includes fixed, long-lived assets and structures that facilitate the production of goods and services and have a public benefit. The non-exhaustive list of examples will be monitored and can be added to over time as needed.

Rail infrastructure includes rolling stock, and ferries have been included as an extension of the road network.

Ownership structures for infrastructure vary with central and local government owning most of the infrastructure in New Zealand. The thin capitalisation rules will only be relevant when the infrastructure is owned by the private sector and there is significant foreign ownership. The non-exhaustive list should be viewed in that light, because some types of infrastructure in the list are not owned by the private sector (for example, water infrastructure owned by local government) and so do not fall within the scope of the new rule. However, they have still been included on the list as examples of typical infrastructure.

Some tangible assets would have satisfied the above definition of "eligible infrastructure assets", except that they provide, or are integral to providing, essential services to a single user or a small group of users rather than to the public or a class of users on a shared-use basis. Such assets will qualify if the services provided are of the kind that are ordinarily provided on a shared-use basis to the public or a class of users, but the absence of the shared use arises solely because the services or products are supplied to a single user or a small group of users under contractual arrangements.

Example 35: Qualifying infrastructure asset

Wind Co is set up to develop a new wind farm in New Zealand and has a 10-year power purchase agreement (PPA) with a single recipient of the generation. The project will help boost the development of renewable energy generation in New Zealand, alleviate pressure

on the national grid, and provide electricity into the grid once the PPA ends. The new wind farm is treated as a "qualifying infrastructure asset" under the new rule.

Commercial buildings (for example, offices, supermarkets, and shopping malls), industrial buildings (for example, factories), and dwellings (for example, private residential housing) are not "qualifying infrastructure assets", except if they are the types of assets that meet the definition of "qualifying infrastructure assets" (for example, airports, hospitals, and schools). However, such assets might be assets that meet the value test if those assets are used in, or for the purpose of, the eligible infrastructure activities carried on by the entity (refer to "Eligible infrastructure entity" above).

Example 36: Dwellings

Dam Co is set up to develop a new hydroelectric power project in a remote part of New Zealand. This involves setting up dwellings for contractors working on the project so they can live nearby during construction. Some of the dwellings will be temporary and some will be permanent for the people that operate the new hydroelectric dam once it is operational.

The hydroelectric power dam is a qualifying infrastructure asset. The temporary and permanent dwellings are not qualifying infrastructure assets, but they are treated as part of the assets used in, or for the purpose of, the infrastructure business under the value test in these circumstances.

Qualifying infrastructure debt

An eligible infrastructure entity electing to apply the new rule is allowed to fully deduct interest expenses incurred on the entity's "qualifying infrastructure debt" with no thin capitalisation income adjustment. Debt will qualify if it is:

- applied to the entity's business or project
- third-party debt, and
- limited recourse debt.

An entity that has non-qualifying debt (such as related-party loans from investors) can still elect to apply the rule. However, the rule effectively denies the interest expenses incurred on such debt. This is achieved by requiring the entity to recognise an amount of income equivalent to the amount of interest expenses incurred on the non-qualifying debt. The entity is also required to recognise an amount of income equivalent to the total amount of dividends paid by the entity for fixed-rate foreign equity or fixed-rate shares held by any other person that is a resident in New Zealand.

Third-party debt

Under the new rule, interest expenses will be deductible (without a thin capitalisation income adjustment) only if the debt is provided by an unrelated third party. This is intended to ensure that foreign investors will not be able to substitute related-party debt for equity, thus preventing the investors from extracting higher returns by claiming interest deductions for the New Zealand operations without materially increasing their risk.

This means that the debt has to be provided by a person who is not:

- a person with a direct or indirect ownership interest in the borrowing entity, or
- an associated person of a person with a direct or indirect ownership interest in the borrowing entity.[11]

This is intended to be a strict requirement so that the interest on any debt from a shareholder, or associated person of that shareholder, will effectively not be deductible (through a thin capitalisation income adjustment). A similar requirement applies to limited partnerships so that interest on any debt from a partner (or associated person of that partner) will effectively not be deductible.

This requirement might impose an undue compliance burden for an infrastructure company that is listed on a stock exchange if investors hold both small quantities of shares and company-issued bonds. Therefore, the new rule includes an exception to the third-party debt requirement above that applies narrowly to an "eligible infrastructure entity" listed on a stock exchange. It will deem a debt to be from a third party if the debt is provided by a shareholder holding, together with any associated persons, 5% or less of the shares in the listed company. The exception also generally applies to an associated person of such a shareholder.

Example 37: Third-party debt – no shareholder debt

A new company (NZ Infrastructure Co) is set up by three non-resident investor companies that hold their shares in the following proportions:

- Foreign Co A: 60%
- Foreign Co B: 30%
- Foreign Co C: 10%.

If any of the foreign companies (or associated persons of the foreign companies) provide debt to NZ Infrastructure Co, the interest on the debt will not be deductible under the new rule (a thin capitalisation income adjustment will apply to effectively deny the deduction).

[11] The term "associated person" is defined in subpart YB of the Income Tax Act 2007.

Example 38: Third-party debt – no partner debt

A new limited partnership (NZ Infrastructure LP) is set up by three non-resident partner companies that hold their partnership interests in the following proportions:

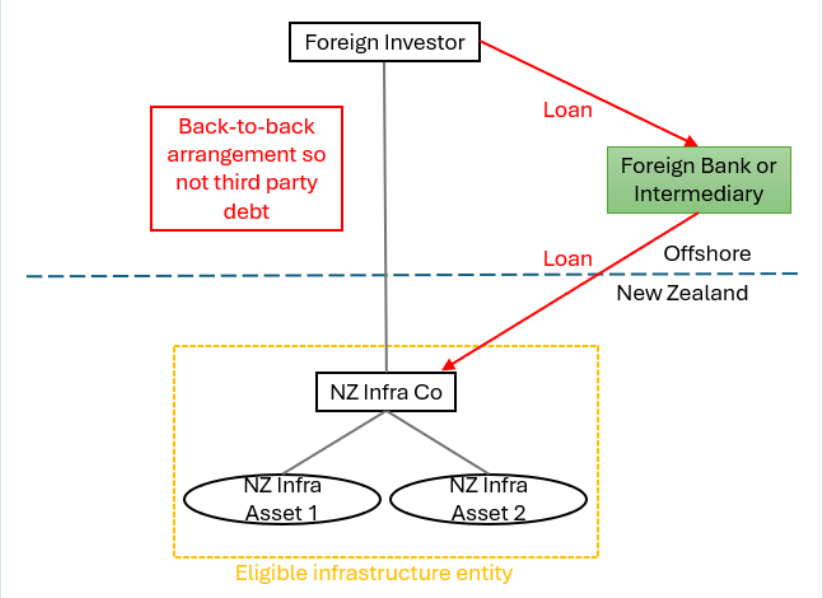
- Foreign Co A: 60%
- Foreign Co B: 30%
- Foreign Co C: 10%.

There is also a company (NZ Co), which is the general partner of NZ Infrastructure LP, that is owned by the three non-resident partner companies.

If any of the foreign companies (or associated persons of the foreign companies) provide debt to NZ Infrastructure LP, the interest on the debt will not be deductible under the new rule (a thin capitalisation income adjustment will apply to effectively deny the deduction).

In addition, debt will also not be regarded as third-party debt if the funds are provided by a direct or indirect owner of the borrowing entity through a back-to-back arrangement. This back-to-back arrangement exclusion also applies to arrangements involving the associated persons of the owner.

Example 39: Third-party debt – back-to-back arrangement



If Foreign Investor has lent money to an unrelated third party (Foreign Bank or Intermediary) that then lends those funds to the eligible infrastructure entity (NZ Infra Co), this will not constitute third-party debt. This is because the definition of "third-party debt" excludes debt when the funds are provided by a direct or indirect owner of the borrowing entity through a back-to-back arrangement.

The exclusion for back-to-back arrangements is not intended to preclude the eligible infrastructure entity (NZ Infra Co) from obtaining debt funding from the bankers of Foreign

Investor when it has funds on deposit and trading accounts as part of its normal business operations that are unrelated to the relevant borrowing. However, when the debt funding does come from Foreign Investor's bankers, the eligible infrastructure entity should maintain documentation that substantiates that the lending has been provided on arm's-length terms and independent from the deposit and trading accounts of Foreign Investor.

To further ensure that a debt instrument will not be used as a replacement for equity, the new rule will effectively disallow interest expense deductions (through a thin capitalisation income adjustment) if the debt has equity-like characteristics or features, or if the return is calculated by reference to profits or cashflows of the eligible infrastructure entity or its associates. Under the new rule, debt will not be regarded as "third-party debt" if it has any of the following features:

- The debt is convertible into shares, other equity interests, or partner's interests of the borrower or an associated person.
- The return due to the lender is calculated by reference to profits, cashflows, or distributions of the borrower or an associated person.
- The debt entitles the lender to any amount from the borrower or an associated person beyond repayment of principal and accrued interest on the debt, other than lender's fees.

Example 40: Debt with equity-like characteristics

A new company (NZ Infrastructure Co) has issued senior debt, subordinated debt, and convertible notes.

The interest rate on the subordinated debt varies so that the providers of the subordinated debt share in some upside, depending on the interest rate on the senior debt. More specifically, if the interest rate on the senior debt is lower than expected, then a portion of the reduction is paid in additional interest to the providers of the subordinated debt. Consequently, the subordinated debt is not treated as third-party debt under the new rule.

The convertible notes pay an annual coupon rate of interest and can be converted into shares in NZ Infrastructure Co at the option of the company providing the funding. The convertible notes are not treated as third-party debt under the new rule.

Example 41: Debt when interest not paid under cashflow waterfall

A new company (NZ Infrastructure Co) has senior debt from external banks. Since NZ Infrastructure Co is still in the early phase of its business's lifecycle, it is not generating sufficient cashflow to fully pay the interest on the senior debt. The interest rate is arm's length and is calculated based on the formula: BKBM + 2%.

While the interest on the debt may not be fully paid because of insufficient cashflow, the interest has not been calculated by reference to profits, cashflows, or distribution of the borrower (or an associated person). Therefore, the senior debt qualifies as third-party debt.

Limited recourse debt

Under the new rule, interest expense will only be deductible (without a thin capitalisation income adjustment) when the debt only has recourse to the assets and income of the eligible infrastructure entity, including the shares in the entity.

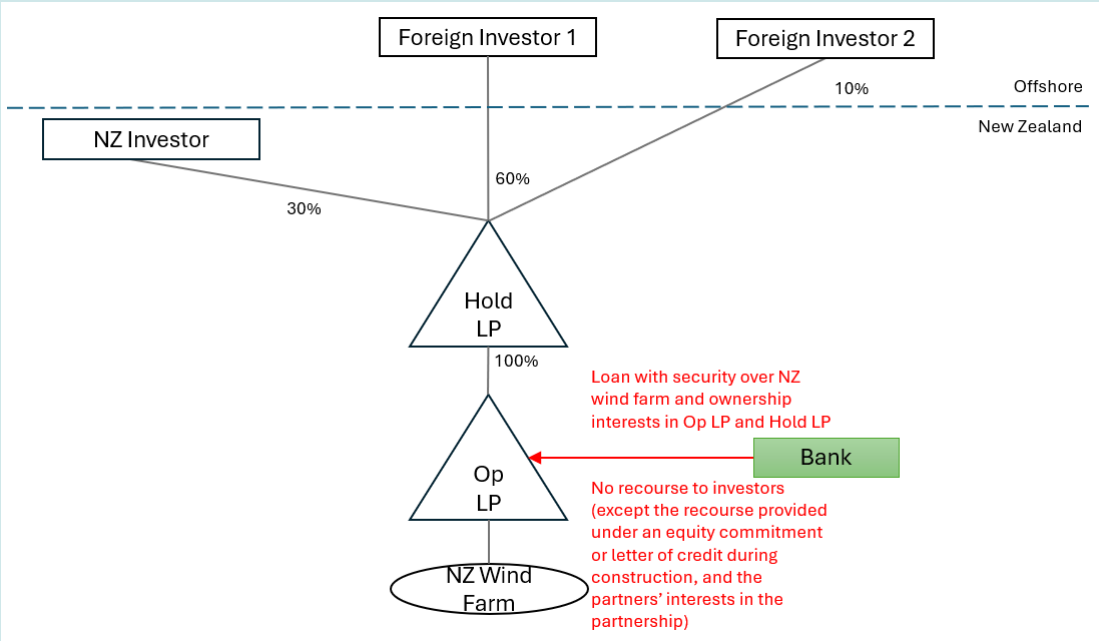
If the eligible infrastructure entity is a partner in a partnership, the recourse will have to be limited to the assets and income only of the partnership giving rise to the eligible infrastructure entity (not the assets and income of the partners that do not form part of the partnership), including any interests in that partnership.

This means the debt cannot have any recourse to the shareholders or partners (except for their interests in the eligible infrastructure entity). In particular, the shareholders or partners cannot provide any form of guarantee over the debt, because this would mean the lender has recourse to these investors in the event of default. There is a limited exception from this rule for equity commitment letters issued during the construction phase of an infrastructure project (described further below).

The rationale for this requirement is that the eligible infrastructure entity must be able to support the level of third-party debt on a standalone basis, relying on its New Zealand infrastructure assets and activities, for it to be a commercially reasonable level of debt for the business or project.

Example 42: Limited recourse debt

A double limited partnership structure, comprising a holding limited partnership (Hold LP) and an operating limited partnership (Op LP), is set up for a new wind farm development in New Zealand. Op LP has external third-party debt from a New Zealand bank that is secured over the wind farm assets of Op LP and the partnership interests in Op LP. Two companies, HoldCo and OpCo, were set up to be the general partners of Hold LP and Op LP respectively. Both HoldCo and OpCo do not own assets that are not part of the partnership.



NZ Investor is not subject to the thin capitalisation rules unless it is controlled by a foreign investor.

Foreign Investor 1 will be able to elect to apply the new rule regardless of whether Foreign Investor 2 elects to apply the rule. This is provided Foreign Investor 1 meets the requirements to be an eligible infrastructure entity on the partner level.

Likewise, Foreign Investor 2 will be able to elect to apply the new rule, provided it meets the requirements to be an eligible infrastructure entity.

In this case, the debt from the bank is third-party debt, and it only has recourse to the assets of the partnership giving rise to the eligible infrastructure entity and to the limited partnership interest. Accordingly, the bank debt qualifies as limited recourse debt for the purpose of the rule.

The bank's recourse does not need to be over a specified asset or group of assets. It also does not need to be in the form of a particular security interest. In this case, the requirement is that recourse is effectively limited to the assets and income of the partnership giving rise to the eligible infrastructure entity and the partnership interests. Therefore, an ordinary general loan to Op LP will still qualify as a limited recourse loan, provided there are no guarantees or credit support, etc, from other entities.

If OpCo also owns other assets that are not part of the partnership, a general loan to Op LP will not be considered a limited recourse loan because the recourse is not limited to the assets and income of the partnership.

Some infrastructure projects involve the investors providing an equity commitment document, or a letter of credit, to the project entity when a new asset is being constructed. This is when a pre-determined level of equity has been committed by the investors but will only be paid into the project entity when it is needed for the project. Third-party lenders will only provide funds to the project entity if the equity funds required for the project have been committed through an equity

commitment document and/or a letter of credit. This is particularly relevant for investments in new infrastructure assets that do not generate income/derive value at the outset.

The new rule includes a narrow exception for project-financed investment that results in the creation of a new infrastructure asset to allow the use of an equity commitment letter or a letter of credit, subject to meeting certain conditions.[12] The exception is intended to only apply narrowly to a project that results in the creation of a new infrastructure asset that is project financed. It is not intended to apply to an existing infrastructure business. The equity commitment letter or the letter of credit has to only be for a specified amount that is equivalent to the amount of equity reasonably required to obtain the finance. It also has to cease to have effect when the infrastructure asset has been constructed (or before that).

Example 43: Equity commitment letter

A new company is set up to construct a new solar farm for $100 million. External banks will provide $75 million of debt, with the remaining $25 million to come in the form of equity from foreign investors. The new company will draw down the $75 million of debt first and then call on the $25 million of equity during the construction phase. Since the equity is coming at the end of the construction phase, the foreign investors provide equity commitment letters to the new company that are also backed by a standby letter of credit for the $25 million of equity. This provides comfort to the external banks that the new company has access to all the funds needed for construction.

In this case, the equity commitment letter and the standby letter of credit fall within the exclusion from the limited recourse debt requirement. Accordingly, the $75 million of debt provided by the external banks is still considered as limited recourse debt and the infrastructure company will be eligible to apply the new rule (assuming the other requirements are met).

Qualifying infrastructure group

The new rule includes an option for a wholly-owned group of companies, or a subset of a wholly-owned group of companies, to be a qualifying infrastructure group and treated as if they were a single entity in applying the rule. By making the election, the group will be considered on a consolidated basis. This means that intra-group loans and dividends will be ignored.

This is intended to:

- provide flexibility in instances when the recourse or the security arrangements on the debt are wider than one company

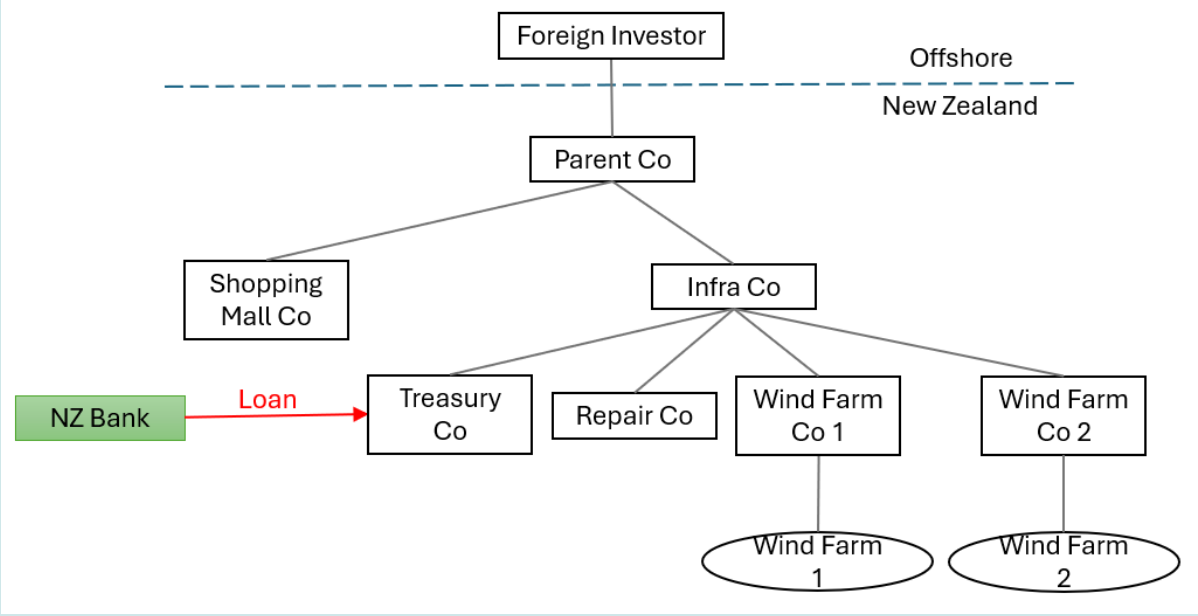
[12] Project finance is a long-term financing of projects that relies on the projected cashflows of the project for debt repayment, rather than the balance sheets of its sponsors. It is typically done through a special purpose entity created for each project to isolate risks.

- allow a corporate group that carries on both infrastructure and non-infrastructure businesses to apply the new rule to the infrastructure part of the group
- provide flexibility when the infrastructure business of the wholly-owned group is split across several subsidiaries with some holding the qualifying infrastructure assets and others undertaking ancillary activities, and
- simplify compliance costs so the group can apply the new rule when the critical tests relating to qualifying infrastructure assets and ancillary and facilitative activities are only met by the group collectively.

To be a subset of a wholly-owned group of companies, every member of the wholly-owned group that is owned by a member of the subset must also be part of the subset. In addition, the members of the subset cannot have ownership interest in any other entity that is not part of the subset.

Example 44: Electing as qualifying infrastructure group

A Wellington group has a parent company (Parent Co) that directly owns 100% of two other companies, Shopping Mall Co and Infra Co. Infra Co, in turn, directly owns 100% of four other companies, Treasury Co, Repair Co, Wind Farm Co 1, and Wind Farm Co 2.



Wind Farm Co 1 and Wind Farm Co 2 own and operate wind farms. Treasury Co performs the treasury function for the wind farms. It borrows from external lenders, secured against the wind farms (with recourse limited to those assets), and on-lends the funds to the wind farm companies as needed. Repair Co repairs and maintains the wind farms under contract with the companies that own them. Shopping Mall Co owns and operates a shopping mall.

Wind Farm Co 1 and Wind Farm Co 2 are carrying on eligible infrastructure activities. However, all their funding is provided by a related party (Treasury Co), so they do not hold any qualifying infrastructure debt (which must be third-party debt). Therefore, both companies will not be able to elect to apply the rules as separate entities.

Repair Co does not own the infrastructure assets that it repairs and maintains, so it is not carrying on an eligible infrastructure activity. Treasury Co, Shopping Mall Co, Infra Co and Parent Co are also not carrying on eligible infrastructure activities.

Therefore, none of the companies will be eligible to apply the new rule on a standalone basis.

However, Infra Co, Treasury Co, Repair Co, Wind Farm Co 1, and Wind Farm Co 2 can form a subset that elects to be treated as a single entity in applying the rule, because the following applies:

- The external funding borrowed by Treasury Co and on-lent to the wind farm-owning companies will be treated as provided directly to the infrastructure group by external third parties. Accordingly, it will be qualifying infrastructure debt since recourse is limited to the infrastructure group (secured against the wind farms), meaning interest deductions will be able to be claimed on it by the group.
- The activities carried out by Treasury Co will be ancillary to the operation of the qualifying infrastructure assets owned by the group (the wind farms), and so will be considered eligible infrastructure activities.
- Since the wind farms are owned by the group, the activities carried out by Repair Co will now be considered eligible activities (maintaining qualifying infrastructure assets owned by the group).

The wholly-owned group of companies that include Parent Co and Shopping Mall Co cannot elect to be treated as a single entity in applying the rule because the shopping mall assets owned by Shopping Mall Co are not qualifying infrastructure assets. These assets exceed 5% of the group's total assets so the inclusion of Shopping Mall Co in the group will cause it to fail the 95% asset test, meaning the group as a whole will not be able to apply the new rule.

Shopping Mall Co and Parent Co will continue to apply the standard thin capitalisation rules. They will not include any debt, interest, assets, and non-debt liabilities of the subset in their balance sheets for the purposes of calculating their thin capitalisation percentage under the standard rules.

Election to use the rule

Entities are allowed to make an annual election to apply the new rule on an annual basis. This enables entities to use the rules that best fit each year, especially when their situations may have changed. The standard thin capitalisation rules apply to entities not making the election.

The election needs to be made by lodging a letter in MyIR with the heading "ELIGIBLE INFRASTRUCTURE ENTITY ELECTION" when filing the return. The letter also needs to state whether the new rule is applied to a single entity or to a group. If it is applied as a group, the letter needs to specify the companies that apply the rule collectively as a group.

By electing to apply the rule, the debt, interest, assets, and non-debt liabilities of the eligible infrastructure entity will be excluded when applying the standard thin capitalisation rules to the remaining members of the New Zealand group that the entity will otherwise be a part of.

When an existing infrastructure company is purchased through a holding company and the amount paid for the transaction exceeds the fair market value of the net identifiable assets of the company, the difference is likely to be recognised as goodwill in the consolidated financial statements of the group (the holding company and operating company). An election for the acquired infrastructure company to apply the new rule will also result in any goodwill associated with its business being excluded from the thin capitalisation calculation of the wider group (that is, the part of the group other than the entity to which the new rule will be applied). This is because the goodwill is inherent in the business of the acquired infrastructure company and will be taken into account by third-party lenders in deciding how much they will lend to that infrastructure company.

Recognising that goodwill as an asset in the balance sheet of the wider group (that has not made an election) will effectively allow it to be counted again for the part of the group that is not applying the new rule. For example, it could be used to support further loans (including related-party loans from the foreign investor) to the holding company under the standard thin capitalisation rules.

Infrastructure Funding and Financing Act 2020 levies

Infrastructure Funding and Financing Act levies (IFF levies) are levies used to fund Crown-endorsed infrastructure projects, but they do not currently fit within the PPP thin capitalisation rule.

The levies are approved by the Government and imposed on ratepayers or users of the infrastructure. The levies are paid to a special purpose vehicle (SPV) that holds the right to impose them under an Order in Council. The SPV then borrows to fund an infrastructure project being carried out by another entity and uses the levies to repay that debt over a period.

The SPVs are mostly debt funded, with only a small amount of equity funding. The infrastructure itself is not owned or built by the SPV (which is generally required under the new rule). Therefore, they will generally not meet the activity test and the value test under the definition of "eligible infrastructure entity" (refer to "Eligible infrastructure entity" above).

The debt in these SPVs is typically limited recourse debt. However, the following two exceptions have been catered for to enable the new rule to be applied:

- The Crown typically provides a guarantee (largely covering regulatory risk, for example, the risk of the Crown repealing the levy) so that lenders are comfortable the SPV will have a revenue stream.

- If the SPV provides funding to a developer for a project, it is expected that security will be sought to guarantee the performance of the developer's obligations (for example, that the infrastructure will be built).

To ensure that SPVs with a right to receive the IFF levies will be able to apply the new rule, the definition of "eligible infrastructure entity" specifically includes such entities. In addition, an exception to the limited-recourse debt requirements applies for such entities to allow for the two forms of guarantees mentioned above that are commonly used in this type of arrangement.

GST and unincorporated joint ventures

GST and unincorporated joint ventures

Sections 2(1), 2A(1)(db), (dc) and (8), 3(2), 5(23C), (23D) (23E), (23F) and (30), 10(7A), 11(1)(mc) and (md), 19N(7)(d), 20(3DB) and (4B), 51(5C), 57(2)(db), 57B, 60(2BA), 75(3BB), 78FB, 92, 93, and 94 of the Goods and Services Tax Act 1985

Summary of amendments

Amendments have been made to the Goods and Services Tax Act 1985 (GST Act) to resolve problems with the unincorporated body rules as they apply to joint ventures.

The new rules allow the members of a joint venture to choose to individually account for GST on supplies made or received in the course of the venture under their own GST registrations (referred to as "flow-through treatment") rather than registering the joint venture separately, consistent with common practices in some industries.

All legislative references are to the GST Act.

Effective date

The amendments take effect on 1 April 2026, except for the amendment to section 10(7A) and new section 57(2)(db), which take effect on 31 March 2026.

Background

A common and longstanding practice in some industries where joint ventures are used is for the members to individually account for supplies made or received in the course of the venture in their own GST returns. This often reflects the commercial reality that the joint venture is undertaken as part of each member's wider business. However, the law did not previously allow this "flow-through" treatment.

Under the original GST rules applying to unincorporated bodies, the members of an unincorporated body could not register individually for the body's activities and claim input tax deductions for goods and services acquired by the body. While this tax setting provided the correct policy outcome for unincorporated bodies such as trusts and partnerships, it created problems for certain types of joint ventures.

This was particularly problematic in the case of joint ventures that could not register for GST because they were not carrying on any taxable activity even though the individual members (as separate persons) made taxable supplies of the output or product of the joint venture. The previous rules meant that in such cases, GST on goods and services acquired by the joint venture

and used by members for making taxable supplies could not be claimed back as an input tax deduction.

Key features

The amendments provide GST "flow-through" treatment for joint ventures in certain circumstances:

- The unincorporated body rules still apply to joint ventures by default. However, the members of a joint venture can elect that the unincorporated body rules do not apply and instead apply flow-through treatment.
- An election to become a flow-through joint venture must be made by agreement of all the members in writing and must be notified to Inland Revenue in the prescribed form.
- The effective date of a flow-through election made during the first year of the rules (that is, before 1 April 2027) will be 1 April 2026 or a later date notified by the joint venture. Elections made on or after 1 April 2027 generally take effect on the date of the agreement between the members.
- Under flow-through treatment, registered members of a "flow-through joint venture" individually account for taxable supplies made or received in the course of the venture in their own GST returns, rather than registering the joint venture separately.
- When the members of a flow-through joint venture that is carrying on a taxable activity jointly make, or are expected to jointly make, supplies over the $60,000 GST registration threshold within a 12-month period in the course or furtherance of that taxable activity, all the members must register for GST.
- When a joint venture elects flow-through treatment, goods and services acquired by the joint venture before the effective date of the election and subsequently used by a member of the joint venture for making taxable supplies are treated for the purposes of the adjustment rules as if the member had acquired their share of the goods and services.
- A taxable supply of an interest in "joint venture property" to a new or existing member of a flow-through joint venture is zero-rated if the recipient is a registered person and intends to use the interest to make taxable supplies.

Transitional rules

A transitional provision validates tax positions taken by a joint venture member for taxable periods starting before 1 April 2026, provided that:

- those tax positions were taken consistently with the new rules providing for flow-through treatment, and
- the joint venture elects to be a flow-through joint venture before 1 April 2027.

Another transitional provision allows a joint venture that was registered for GST before 1 April 2026 to apply to cancel its registration and elect for flow-through treatment during the first year of the new rules. This "transitional deregistration rule" will cease to be available on 1 April 2027. From that date, GST-registered joint ventures will not be eligible to elect to become flow-through joint ventures.

Other technical amendments

Other changes to the GST rules relating to unincorporated bodies include:

- When any unincorporated body deregisters, it is treated as making a taxable supply at market value to its members of any assets of its taxable activity that it has retained, immediately before the cancellation of its registration.
- The above deemed supply on deregistration is zero-rated if the recipient of the supply is a registered person that intends to use the goods and services for making taxable supplies.
- The associated persons rules relating to joint ventures are amended. The tripartite test of association is limited so that it does not apply to the association test for a joint venture and a member of the joint venture. Instead, a new association test applies when two members of a joint venture transact with one another in their capacity as members of the joint venture (regardless of whether the joint venture is a flow-through joint venture or a joint venture that is an unincorporated body).

Detailed analysis

Changes to definitions

New definitions of "flow-through joint venture" and "ordinary joint venture" have been added to section 2(1). Amendments have also been made to the definitions of "person" and "unincorporated body".

New definitions

A "flow-through joint venture" is defined as a joint venture for which an election for flow-through treatment has been made under section 57B(2).

This new definition expressly excludes a partnership. This is to clarify, for the avoidance of any doubt, that the rules allowing flow-through treatment for joint ventures do not apply to partnerships (which remain as unincorporated bodies under the GST Act in all cases).

An "ordinary joint venture" is a joint venture that is not a partnership or a flow-through joint venture.

Meaning of "joint venture" in new definitions

In the new definitions of "flow-through joint venture" and "ordinary joint venture", "joint venture" has its common law meaning, which is a contractual association under which parties come together for a particular common commercial goal. According to case law, an essential feature of a joint

venture is that there must be a joint undertaking, where plans are worked through for the benefit of and with input from each party.[13] A contract between the parties does not need to be in writing for a joint venture to exist.

Joint ventures are usually distinguishable from partnerships in that they tend to have a finite and confined purpose, such as a particular project or development. The parties involved often carry on a business of their own separately from the other participants, in some cases as competitors. In contrast, partnerships are usually formed to conduct a general and ongoing business. In addition, partnerships must be carried on "in common", which requires that the parties are acting jointly, rather than independently, and that each person's actions bind the others.

While co-ownership is a common feature of a joint venture, simply co-owning property while undertaking individual ventures, or passive co-ownership of assets as an investment (for example, a passive investment in a syndicate), will not give rise to a joint venture. These scenarios lack the necessary joint undertaking and active decision-making features of a joint venture.

The examples included in this Commentary are merely illustrative of the effect of the amendments (assuming the arrangement illustrated in any given example is a joint venture) and should not be taken as indicative of whether a particular arrangement is factually a joint venture.

Changes to existing definitions

The following changes to existing definitions have been made to give effect to the new rules:

- "Person" is now defined to include a company, an unincorporated body, a public authority, and a local authority; but as not including a flow-through joint venture.
- "Unincorporated body" is defined as an unincorporated body of persons, including a partnership, the trustees of a trust, and an ordinary joint venture; but not including a flow-through joint venture.

Ordinary joint ventures

Under the new rules, all joint ventures are ordinary joint ventures by default and must continue to apply the current unincorporated body rules except when they validly elect to become a flow-through joint venture.

If a joint venture actively chooses unincorporated body treatment by applying for GST registration as an ordinary joint venture (instead of electing to be a flow-through joint venture), or the Commissioner chooses this by forcing the joint venture's registration, this choice cannot be subsequently cancelled or revoked. The sole exception to this is when the transitional deregistration rule in new section 92, discussed at "Deregistration rule for joint ventures registered before 1 April 2026", applies.

[13] *Commerce Commission v Fletcher Challenge Ltd* [1989] 2 NZLR 554 (HC).

Example 45: Treatment of ordinary joint venture

Two GST-registered companies, Works Co and Roading Co, are in a joint venture for an infrastructure project, Infrastructure JV. By default, Infrastructure JV is an ordinary joint venture under the GST Act, meaning that it is an unincorporated body (and therefore a person) for GST purposes.

Because Infrastructure JV is carrying on a taxable activity and making supplies in New Zealand in the course or furtherance of that taxable activity above the threshold for registration, Infrastructure JV is by default liable to register for GST. Infrastructure JV registers for GST with an effective date for its registration of 1 July 2026.

Infrastructure JV will account for all taxable supplies and purchases made on or after 1 July 2026 in its GST returns. Works Co and Roading Co should not account for these supplies and purchases in their own GST returns, because those supplies are treated as being made and received by Infrastructure JV.

Flow-through joint ventures

Election requirements

If the members of a joint venture wish to individually account for supplies made or received in the course of the venture in their own GST returns, the joint venture must elect to be a flow-through joint venture under section 57B(2).

To make the election under section 57B(2), the members must unanimously agree in writing that they are electing flow-through treatment and have a nominated member of the joint venture notify Inland Revenue in the prescribed form, being completion of the online non-individual IRD number registration process selecting the "joint venture" and "GST flow-through" options.

This process requires the following information and attachments to be provided:

- the names of the members
- the IRD numbers of the members, except when a member does not have an IRD number and is not required to have an IRD number
- a description of the joint venture activity
- a copy of the written agreement between the members.

When completing this process, the nominated member should use the taxable activity start date box to enter the date the joint venture is electing to apply flow-through treatment from. The election start date cannot be earlier than 1 April 2026.

A flow-through joint venture is not itself required to have an IRD number but it will be assigned a customer identifier that can be used when communicating with Inland Revenue. Inland Revenue will send a letter with the customer identifier after the online non-individual registration process is

completed. The nominated member can create a myIR account for the joint venture when they complete the non-individual registration process, or they can register later using the joint venture's customer identifier.

Under a transitional provision (new section 94), an election made before 1 April 2027 will be backdated to 1 April 2026, or a later date notified by the joint venture. If the members decide they want the election to be backdated to 1 April 2026 rather than have it apply from a later date, they should specify in the written agreement that they agree the election be backdated to 1 April 2026.

Starting on 1 April 2027, elections for flow-through treatment must be notified within 21 days of the date of the written agreement between the members, with the election taking effect on the date of the agreement.

In limited circumstances, the Commissioner may accept a late election and backdate it, if the delay is due to circumstances outside the members' control or in other appropriate circumstances (see sections 57B(4) and 94(3)). The circumstances in which the Commissioner would exercise this discretion are similar to the administrative criteria currently used for determining whether a voluntary GST registration can be backdated (see Standard Practice Statement SPS 18/03 Effective date of GST registrations).

Consequences of flow-through election

Once a joint venture validly elects to become a flow-through joint venture under section 57B(2), the election cannot be cancelled or revoked.

If a valid election under section 57B(2) is made, the members of the joint venture that are registered persons must separately:

- account for output tax on taxable supplies made, and
- claim input tax deductions for supplies received, if the relevant goods and services are used for, or intended for use in, making taxable supplies.

Under this approach, the members will generally account for supplies according to the proportions the members have agreed to for sharing the gross proceeds or consideration received for supplies they make together (if applicable), and receive supplies according to the proportions they have agreed for sharing costs.

Example 46: Treatment of flow-through joint venture

Smitty Ltd, Wedmonds Co and Sherriff Petroleum are members of a joint venture that has commenced exploring for petroleum at a new site in Taranaki.

Under the joint venture agreement, when the extraction activity commences, each party is entitled to a share of the extracted petroleum. The intention at the outset is that each party will individually market and sell their share of the petroleum. When one of the members sells its share of the extracted petroleum, it will account for output tax in its own GST return based on the entire consideration for the supply.

The parties agree in writing that they will elect flow-through treatment for the joint venture. Sherriff Petroleum (as the nominated member) notifies this election to Inland Revenue in the prescribed form before 1 April 2027 and requests that the election take effect on 1 September 2026 (being the date the joint venture commenced).

Smitty Ltd, Wedmonds Co and Sherriff Petroleum co-own some of the assets used for the joint venture on a 40:30:30 basis as tenants in common. They also agree that they will each contribute to the costs of the project in proportion to their respective interests in the joint venture assets.

Under flow-through treatment, the members are treated as receiving supplies in proportion to their interests in the joint venture assets, being the proportions in which they have agreed to share costs. They each separately claim input tax deductions for the goods and services acquired for the purposes of the joint venture in their respective GST returns in line with their cost sharing percentages.

Total supplies rule

Under new section 51(5C), when the members of a flow-through joint venture jointly carry on a taxable activity, each member of the joint venture is liable to register with effect on the date that the joint venture would have been liable to register under section 51(1) if it had been an ordinary joint venture. This means that when section 51(5C) applies, any members that are not already registered for GST must register.

The reference to the members "jointly carrying on a taxable activity" is intended to mean that the joint venture activity is of a continuous or regular nature and is intended to involve the making of joint or collective supplies (not being exempt supplies) by the members for consideration. In other words, if the joint venture had not elected to be a flow-through joint venture, it would be a "person" (being an ordinary joint venture) that is carrying on a taxable activity.

Example 47: Application of total supplies rule

Bertha and Bevin have entered into a joint venture (not a partnership) to build a boat. Bertha and Bevin have agreed to share revenue and costs from the venture on a 60:40 basis. Neither Bertha nor Bevin are GST registered or are carrying on any other taxable activity.

As of 1 April 2026, Bertha and Bevin expect to complete the construction of the boat and sell it for more than $60,000 within the next 12 months (meaning that the joint venture's total supplies in the coming 12 months will likely exceed $60,000). Rather than register the joint venture for GST, Bertha and Bevin agree in writing that they will elect the joint venture as a flow-through joint venture. Bertha (as the nominated member) notifies this election to Inland Revenue in the prescribed form before 1 April 2027. The election takes effect on 1 April 2026.

Even though on an individual basis, neither Bertha nor Bevin's supplies in the 12 months starting 1 April 2026 are likely to exceed the $60,000 registration threshold, because the supplies made by the joint venture itself are above the registration threshold, the total supplies rule in section 51(5C) applies to require both Bertha and Bevin to register when they elect flow-through treatment.

Because section 51(5C) only applies if the joint venture itself would be liable to register if it was instead an ordinary joint venture, this rule does not apply if the joint venture activity is below the $60,000 registration threshold or if the joint venture activity is not a taxable activity. This is explained in more detail below with illustrative examples.

Outcome under flow-through treatment when joint venture below registration threshold

Example 48 illustrates how flow-through treatment applies when section 51(5C) does not apply specifically because the joint venture activity (despite being a taxable activity) is below the $60,000 registration threshold.

Example 48: Flow-through joint venture below registration threshold

John and Grace are in a flow-through joint venture on a 50:50 basis for a standardbred mare they are using for breeding after it was retired from racing.

The breeding activity is expected to produce annual supplies of about $20,000 excluding GST from the sale of a foal. While the breeding activity is a taxable activity, because the total supplies from the breeding activity are expected to be below the $60,000 registration threshold, John and Grace are not required to register for GST solely because of the joint venture.

However, John is already registered for GST in relation to an accountancy business he carries on as a sole trader. Therefore, John must account for all his taxable activities in his GST

returns. This will include output tax on his share of the joint venture supplies as well as his supplies of accountancy services.

Grace does not carry on any other taxable activity, and her share of the breeding activity does not exceed the registration threshold. She does not need to register for GST.

When joint venture activity not standalone taxable activity

A joint venture can be elected as a flow-through joint venture even if it is not carrying on a taxable activity, provided that at least one of the members can individually register for their "part" of the joint venture activity.

In most cases, a member of a joint venture cannot register for their part of the joint venture activity if the joint venture activity on its own is not a taxable activity. The exception to this is when the activity is an integral part of a wider taxable activity that the member carries on separately, and flow-through treatment is elected under section 57B(2). When this applies, the member must account for GST on their share of joint venture supplies made in their own GST returns (because this is a taxable supply the member makes). Input tax on the member's share of goods and services acquired is only deductible if there is a nexus between the expenditure and a taxable supply the member makes, as per ordinary GST principles.

Example 49 illustrates how the new rules apply to a joint venture that is merely carrying on a hobby (instead of a taxable activity), in the specific situation where flow-through treatment is elected due to the activity being an integral part of a taxable activity carried on by one of the members.

Example 49: Joint venture carrying on a hobby

Catherine is a GST-registered bloodstock breeder. She and a racing enthusiast she knows, Martin, are in a flow-through joint venture on an 80:20 basis for a colt they acquired to race. The joint venture is carrying on horse racing as a hobby and not as a taxable activity.

Catherine's intention in relation to the colt is to use it for breeding once its racing career is over. However, deciding when the colt will retire from racing, and if and when it will commence breeding, is subject to the agreement of both parties to the venture.

Since Catherine is separately carrying on a taxable activity of breeding and intends to use the colt for breeding purposes (meaning she intends to use the colt to make her separate taxable supplies), Catherine must account for output tax on her share of any prize money received, as well as her share of any gross revenue from stud fees when the breeding phase commences. Catherine is also entitled to claim input tax deductions for her share of expenditure on the colt in her own GST returns.

Martin cannot claim input tax deductions for his share of expenditure on the colt. This is because his participation in the joint venture is a hobby. This applies even if Martin is already GST registered for a different taxable activity that is unrelated to horse racing.

Record-keeping requirements

So that Inland Revenue has access to sufficient information for its compliance and enforcement activities, new section 57B(6) requires a member of a flow-through joint venture to either:

- keep records that are sufficient for the Commissioner to ascertain the proportions in which each member makes and receives joint venture supplies and acquisitions, or
- agree in writing with the other members the proportions in which each member makes and receives joint venture supplies and acquisitions.

Many written joint venture agreements already contain clauses making it clear in what proportions the members are sharing revenues and costs. This is sufficient to meet the requirements of section 57B(6), provided that the member retains a copy of the joint venture agreement.

However, some joint ventures do not have a formal (written) agreement but are instead informal contractual associations. In such cases, there may not be a written record that would enable the Commissioner to ascertain the proportions in which each member makes and receives joint venture supplies and acquisitions. The purpose of section 57B(6) is to ensure that there is such a written record by requiring the members to write down what they have agreed regarding this aspect. For example, they could do this by recording this information in the written agreement that they are required to make under section 57B(2)(a) to elect to become a flow-through joint venture.

The requirement to keep a written record of the proportions in which each member makes joint venture supplies only applies insofar that the members jointly make supplies in the course of the joint venture activity. Some joint ventures do not involve making joint supplies but, rather, the members each take an agreed share of the output or product of the joint venture and supply their share separately from the other members (as illustrated in Example 46).

In this circumstance, there are no "proportions in which each member makes joint venture supplies" (because there are no joint venture supplies). Therefore, the members in this instance are not required to keep a written record of that information. However, they should still maintain a record of the proportions in which they each receive supplies made to the joint venture.

Notification requirement when membership changes

When the membership of a flow-through joint venture changes, new section 57B(7) requires a nominated member of the joint venture to notify the Commissioner of any member that is no longer a member of the joint venture and the date they ceased to be a member, as well as the

name and IRD number of any new member and the date they joined the venture. This notification must be made within 21 days of the former member leaving or the new member joining.

Split supply rule

When the members of a flow-through joint venture make a single supply of goods and services together as a group, new section 5(30) splits the supply into multiple separate supplies, being one supply by each member.

In the absence of this rule, when the members of a flow-through joint venture make a single supply of goods and services together, section 8(1) might not always clearly allow a registered member, making their part of the supply in the course or furtherance of a taxable activity that they carry on, to separately account for GST on their share or part of the supply. The purpose of the "split supply rule" in section 5(30) is therefore to enable the provisions of the GST Act, including section 8(1), to appropriately determine the GST treatment of each member's supply.

Example 50: Split supply rule

Consider the facts outlined in Example 48.

During February 2027, a yearling that was birthed by the mare is sold to a buyer by way of a private sale for $25,000 plus GST, if any.

Under the split supply rule in section 5(30), John and Grace are each treated as making a supply to the buyer in proportion to the ratio that they have agreed to share joint venture revenues or consideration (namely, 50% each).

Under this rule, John has made a supply in the course or furtherance of his taxable activity for which the total consideration including GST is $14,375 (being 50% of $25,000 plus GST of $1,250). John accounts for output tax of $1,250 in his GST return for the taxable period that includes the month of February 2027.

While Grace also makes a supply in the course or furtherance of a taxable activity for a GST-exclusive consideration of $12,500, Grace is not registered for GST and is not liable to register. Therefore, her supply is not a taxable supply, and she does not account for output tax on the supply.

Amendment to agency rules

New section 60(2BA) provides that, when a registered person makes a taxable supply of goods and services to a member of a flow-through joint venture, the member is treated as an agent for the other members for the purposes of section 60(2) if that member acquires the supply for the benefit of all the members.

This clarifies (for the avoidance of doubt) that when a member of a flow-through joint venture acquires goods and services for the purposes of the joint venture, the person (referred to here as

the "acquiring member") does so as a principal for their own share of those acquisitions and as an agent for the other members' share.

This allows each member to claim an input tax deduction for the supply by using the taxable supply information provided to the acquiring member to support their claim. The taxable supply information need not include all the members' details. Consistent with section 60(2), it is sufficient for the taxable supply information to include "recipient details" for the acquiring member as agent and not the other members.

Agreed apportionment methods

Under new section 20(3DB), if a flow-through joint venture makes both taxable and exempt supplies (meaning the members jointly make both taxable and exempt supplies in the course of the joint venture activity), the method of apportionment applied by each member for joint venture acquisitions used to make both types of supplies must be:

- the same method for all members
- agreed in writing between the members, and
- fair and reasonable.

This ensures that the members cannot use different apportionment methods for the same goods and services when the members jointly use those inputs to make both taxable and exempt supplies (thus preventing potential over-recovery of input tax on these costs).

This requirement for the members to agree on an apportionment method does not apply in the case of a flow-through joint venture that would not make any supplies other than supplies to its members if it was instead an ordinary joint venture (that is, because the members each take an agreed share of the output of the joint venture and make separate rather than joint supplies). In that instance, the flow-through joint venture does not make both taxable and exempt supplies, even if the members combined might make both types of supplies.

Example 51: Agreed apportionment method for joint venture costs

Siobhan and Vito are in a flow-through joint venture and acquire $5,750 of goods and services (including GST) for the joint venture. These inputs are to be used by Siobhan and Vito to jointly make both taxable and exempt supplies. Therefore, because there is some non-taxable use of the relevant inputs, not all the $750 of GST can be claimed by Siobhan and Vito as an input tax deduction.

Siobhan and Vito determine based on the joint venture's turnover (the joint venture's ratio of taxable to exempt supplies) that the ratio of taxable to non-taxable use of those inputs is 75:25. This is a fair and reasonable method for the inputs in question. Therefore, Siobhan and Vito agree in writing that the method of apportionment applicable for these inputs (and for similar inputs acquired for the purposes of the joint venture) is the joint venture's turnover and both keep records of this agreement.

The total available input tax deduction for these inputs based on the agreed apportionment method is $562.50 (75% of $750).

Siobhan and Vito have agreed to contribute to the joint venture's costs on a 60:40 basis. Therefore, Siobhan's input tax deduction is $337.50 (60% of $562.50), whereas Vito's input tax deduction is $225 (40% of $562.50).

Example 52: Joint venture not required to have agreed apportionment method

Gordon and Kaitlyn both want to build apartments – Gordon, to sell his units at a profit, while Kaitlyn intends to sell half of her units at a profit and rent out the remaining half to residential tenants. Both are interested in the same piece of bare land. They decide to buy the land together (half share each) and to build a six-storey block with 20 apartments in total on that land. Gordon and Kaitlyn each want half of the output of the project (10 apartments each) and agree which units are for Gordon and which ones are for Kaitlyn.

Gordon and Kaitlyn's intention at the outset is that they will each separately market and sell their apartments (by separately contracting with real estate agents to market and sell their own share), rather than marketing and selling all the apartments together and dividing the profits between the two of them.

Because Kaitlyn intends to only sell five of her units and rent out the remaining five for exempt residential rental accommodation (meaning she intends to use her units to make both taxable and exempt supplies), Kaitlyn will need to apportion her input tax deductions for goods and services acquired for the purposes of the joint venture (and make any subsequent adjustments when the actual non-taxable use of those inputs differs at the end of an adjustment period). Gordon, however, does not apportion his input tax deductions, because his intended use of his share of the inputs is to make 100% taxable supplies.

Section 20(3DB) does not require Kaitlyn and Gordon to agree an apportionment method for the joint venture costs. While the goods and services acquired for the purposes of the joint venture will be used to make both taxable and exempt supplies, section 20(3DB) does not

apply in this scenario because the supplies made by Kaitlyn and Gordon would not be treated as being made by the joint venture if it was instead an ordinary joint venture (because those supplies are made by Kaitlyn and Gordon separately, rather than jointly).

Change of use adjustment when taxable use of joint venture property changes

New section 57B(5) provides that if an unregistered joint venture elects to be a flow-through joint venture, any goods and services acquired by the joint venture and subsequently used by a member for making taxable supplies are treated as if the member acquired the goods and services for the purposes of the adjustment provisions (sections 21 to 21H).

Notably, this rule allows a previously unregistered member of a flow-through joint venture to make an input tax adjustment under section 21B for the goods and services comprising their interest in the "joint venture property" (being any property co-owned by the members for the purpose of the joint venture) when the member becomes a registered person, even though the joint venture was the "person" who originally acquired the goods and services.

If there is a subsequent change of use of the goods and services after making the initial adjustment under section 21B, the other adjustment rules would also apply.

Example 53: Change in use adjustment for previously unregistered member

Kelvin and Graeme are agricultural contractors in a joint venture and co-own 50:50 a secondhand tractor they purchased in March 2018. Before April 2026, the supplies made by the joint venture in the course or furtherance of its taxable activity were always below the $60,000 registration threshold and the joint venture had not registered for GST.

As of April 2026, the joint venture's total supplies in that month and the following 11 months are expected to be $65,000. This means that the joint venture is liable to register as an unincorporated body, unless it is elected as a flow-through joint venture.

Kelvin and Graeme agree in writing that they will elect for flow-through treatment and Kelvin (as the nominated member) notifies Inland Revenue of the election in the prescribed form. Because their combined supplies in the course of the joint venture exceed the $60,000 registration threshold, Kelvin and Graeme each register and account for GST on their share of the supplies made and received.

Upon registering, Kelvin and Graeme are each entitled to an input tax adjustment for their interest in the tractor under the change of use rule in section 21B, based on the price they paid for the tractor in March 2018. Kelvin and Graeme are each treated as having acquired their respective interests in the tractor in March 2018 for the purposes of section 21B and the other adjustment provisions (instead of the joint venture having acquired the tractor as a separate person).

Supplies of interests in property of flow-through joint venture

The new rules allowing flow-through treatment for joint ventures mean flow-through joint ventures are not treated as separate "persons" for GST purposes. The rules reflect the legal reality that any property used for the purpose of the joint venture is owned individually by one of the members or is instead co-owned by the members, either directly or indirectly through a nominee company. Consistent with this, the definition of "participatory security" in section 3(2) excludes an interest in a flow-through joint venture.

This exclusion from the definition of "participatory security" is not intended to be read as suggesting that an interest in a joint venture would otherwise always be a participatory security. Given the definitions of "participatory security" and "contributory scheme" in section 3(2), an interest in a joint venture may not be a participatory security.

When a registered person, being a member of a flow-through joint venture, supplies their interest in any "joint venture property" as a taxable supply to a new or existing member of the joint venture, new section 11(1)(md) may apply to zero-rate the supply.

Section 11(1)(md) applies if:

- the joint venture property does not include land, and
- the recipient of the supply is also a registered person and intends to use the interest to make taxable supplies.

For the purposes of section 11(1)(md), "joint venture property" is defined as assets jointly owned and rights jointly held by the members of a joint venture for the purposes of the venture. This is intended to capture all property that is co-owned by the members for the purposes of the joint venture, as well as any rights the members have under the joint venture contracts. For example, this does not include a mining license that is held by only one of the members but is used for the joint venture, or any other asset contributed to the joint venture by one of the members if that member retains full ownership of the asset.

If the joint venture property includes land, the supply is zero-rated under the existing compulsory zero-rating rule for business-to-business supplies of land in section 11(1)(mb), provided the recipient of the supply is a registered person and intends to use the interest in the property to make taxable supplies.[14]

[14] For the purposes of the compulsory land zero-rating rules, "land" is defined in section 2(1) to include an estate or interest in land; a right that gives rise to an interest in land; an option to acquire land or an estate or interest in land; and a share in the share capital of a flat or office owning company to which Part 3, subpart 6 of the Land Transfer Act 2017 applies. A mortgage and a lease of a dwelling are both specifically excluded from the definition.

To be a zero-rated supply under section 11(1)(md), the conditions for zero-rating must be satisfied at the time of supply.

Provided the conditions of section 11(1)(md) are met, a supply of an interest in joint venture property is zero-rated in its entirety even if the recipient intends to use the goods and services partly for non-taxable use. In these circumstances, the purchaser is liable to account for output tax on the non-taxable use of the goods and services under section 20(3J).

Disclosure requirements

Similar disclosure requirements to those applying to supplies wholly or partly consisting of land now also apply to a supply of an interest in joint venture property by a member of a flow-through joint venture to another member. New section 78FB requires the recipient to notify the supplier whether, at the time of supply:

- they are, or expect to be, a registered person, and
- they are acquiring the interest in the joint venture property with the intention of using it for making taxable supplies.

A recipient who is a registered person must provide their registration number to the supplier at or before the time of supply. The supplier is entitled to rely on the information provided by the recipient in determining the GST treatment of the supply.

Example 54: Business-to-business supply of joint venture property of flow-through joint venture

Explore Co, Pipeline Co and Gas Co are members of a joint venture that has commenced extracting natural gas and condensate that was recently discovered. The members are all individually registered for GST. The joint venture is a flow-through joint venture, meaning the members individually account for supplies and purchases in their own GST returns.

Several of the assets used for the joint venture are co-owned by the members as tenants in common. None of the co-owned assets meet the definition of "land" that applies for the purpose of the compulsory land zero-rating rules.

Explore Co owns a one-third interest in the joint venture property. After two years, Explore Co decides to exit the venture and divest its interest in the joint venture property. It sells its interest to a new member, Energy Co, who is also a registered person. Energy Co advises Explore Co in writing that Energy Co is a registered person and is acquiring the interest in the joint venture property with the intention of using it to make taxable supplies.

The supply of Explore Co's interest in the joint venture property to Energy Co meets the requirements for zero-rating in section 11(1)(md). Accordingly, it is treated as a zero-rated supply.

Record-keeping requirements

If a supply is zero-rated under section 11(1)(md), new section 75(3BB) requires the supplier to maintain sufficient records to enable the following particulars in relation to the supply to be ascertained:

- the name and contact details of the recipient
- the registration number of the recipient
- a description of the goods and services, and
- the consideration for the supply.

Reverse charge when supply incorrectly treated as zero-rated

If it is subsequently discovered that a supply of an interest in the property of a flow-through joint venture should have been treated as standard rated rather than zero-rated under section 11(1)(md), section 5(23F) treats the recipient as making a standard-rated supply of the goods and services in question on the date the error is found. Section 5(23F) applies if the recipient did not provide the supplier with correct or sufficient information under section 78FB to enable the supplier to determine whether the supply should be zero-rated.

This means the recipient must account for output tax under section 5(23F) only if the incorrect treatment of the supply arose from the recipient providing incorrect or incomplete information to the supplier. If the error instead arose due to the actions of the supplier (for instance, the supplier ignored the information provided by the recipient and unilaterally treated the supply as zero-rated), the supplier must correct their treatment of the supply and account for and pay the output tax on the supply to Inland Revenue.

If section 5(23F) applies and the recipient is not registered for GST, the recipient is treated as registered on the date of the supply under section 5(23F) and must apply for registration (see section 51B(4)). If they fail to apply to register, the Commissioner can force their registration. Registration of the recipient will generally only be a temporary measure, assuming the person is not carrying on a taxable activity or is only carrying on a taxable activity below the registration threshold and section 51(5C) does not apply to require them to be registered.

Transitional rules

Pre-1 April 2026 tax positions taken consistently with flow-through treatment

New section 93 validates tax positions taken by members of joint ventures for taxable periods starting before 1 April 2026, provided certain requirements are met.

Section 93 applies when, before 1 April 2026:

- the members of a joint venture consistently adopted a tax position treating the supply and acquisition of goods and services by the joint venture as separate supplies and acquisitions made by the members
- the joint venture was not registered for GST, and
- if the total value of supplies made in New Zealand by the joint venture in the course or furtherance of all taxable activities it was carrying on exceeded the $60,000 registration threshold, each member of the joint venture was registered for GST.

Section 93 applies if the joint venture elects before 1 April 2027 to become a flow-through joint venture under section 57B(2). This prevents possible flip-flopping between having flow-through treatment apply retrospectively to historic tax positions but not apply on a prospective basis because a valid election for flow-through treatment on a go-forward basis is not made.

However, in limited circumstances, the Commissioner may accept a late election and backdate it (consistent with the discretion applying under sections 57B(4) and 94(3)). If this occurs, past tax positions taken consistently with the new rules will be validated under section 93.

Under section 93(4), the joint venture is treated as not being a person under section 2(1), and section 57 does not apply to the joint venture. This has the effect of validating past tax positions taken by a member of the joint venture (provided, as mentioned, those positions were taken consistently with the new rules allowing flow-through treatment).

Deregistration rule for joint ventures registered before 1 April 2026

Some GST-registered joint ventures that already existed before 1 April 2026 might prefer to have flow-through treatment for GST purposes (rather than retain the joint venture's pre-existing GST registration and status as an unincorporated body).

New section 92 allows a joint venture that was registered before 1 April 2026 to apply for its registration to be cancelled and elect to become a flow-through joint venture under section 57B(2). This transitional deregistration rule will be available for the period of 12 months beginning on 1 April 2026 and overrides the usual requirements for deregistration in section 52(1). This means joint ventures wishing to apply this rule have until 1 April 2027 to apply to have their registration cancelled and make the election.

If the Commissioner cancels a joint venture's registration under new section 92, each member is then liable to be individually registered (in accordance with new section 51(5C)) with effect on the date that cancellation takes effect.

Example 55: Joint venture deregisters under transitional rule

Explore Co, Energy Co, Pipeline Co and Petroleum Co are the members of a joint venture, Petroleum JV, that has been in operation for several decades and is separately registered for GST.

Following the enactment of the new rules, the members agree they will seek to cancel Petroleum JV's registration and elect to be a flow-through joint venture, so that they can individually account for GST on any supplies made or received in their own GST returns.

Petroleum JV applies under section 92 to Inland Revenue to cancel its registration, and elects for flow-through treatment under section 57B(2), in April 2026. The cancellation of Petroleum JV's registration takes effect on 1 May 2026.

As of 1 May 2026, the members are treated as individually carrying on the joint venture activity on a prospective basis, and as individually making and receiving any supplies made or received on or after 1 May 2026.

The members also remain jointly and severally liable for any outstanding tax payable by Petroleum JV for taxable periods ending before the date of deregistration.

Other technical amendments

Deemed supply on deregistration of unincorporated body

New section 57(2)(db) applies when an unincorporated body's registration is cancelled. This rule provides that any goods or services forming part of the assets of a taxable activity carried on by the unincorporated body are treated as being supplied by the body, in the course of that taxable activity, to its members immediately before it ceases to be registered. This provision operates instead of the ordinary de-registration rule in section 5(3) for unincorporated bodies. This supply is treated as being made for market value (see section 10(7A)), consistent with the existing rule in section 5(3).

New section 11(1)(mc) zero rates the deemed supply of the unincorporated body's assets if the recipient of this supply is a registered person who is acquiring the assets with the intention of using them for making taxable supplies.

If section 11(1)(mc) is incorrectly applied to treat a standard-rated supply as zero-rated, new section 5(23D) requires the recipient of the supply to account for and pay output tax on the supply to Inland Revenue, similar to the existing reverse charge in section 5(23B) in the land zero-rating rules. However, unlike existing section 5(23B), section 5(23D) applies whenever a standard rated supply under section 57(2)(db) is incorrectly treated as zero-rated, regardless of the reason why the supply was incorrectly treated as zero-rated.

An amendment to section 20(3J) requires a member of an unincorporated body that is a registered person and acquired goods or services that were (correctly) zero-rated under new section 11(1)(mc) to account for output tax on non-taxable use of the goods or services.

Example 56: Deemed supply on deregistration of joint venture

Consider the facts outlined in Example 55.

Immediately before Petroleum JV's registration is cancelled, Petroleum JV is treated as making a supply of the goods and services forming part of the assets of its taxable activity to the members in the course or furtherance of its taxable activity. The members are therefore treated for GST purposes as each acquiring an interest in the assets, in proportion to their existing ownership interest in the assets.

The value of the supply is deemed to be the market value of the assets (currently $1.5 billion). However, since all the members are registered persons and intend to use their respective shares of the joint venture assets to make taxable supplies, the supply is zero-rated under section 11(1)(mc). This means Petroleum JV will not account for output tax on the supply (and the members will not claim input tax deductions).

Definition of "associated persons"

The definition of "associated persons" in section 2A has been amended so that, starting on 1 April 2026:

- section 2A(1)(db) only applies to an ordinary joint venture, to associate the joint venture with its members
- the tripartite test in section 2A(1)(i) does not apply if persons A and B are both associated with an ordinary joint venture (person C) under section 2A(1)(db), meaning that the members of an ordinary joint venture will not generally be associated with each other.

However, when members of a joint venture transact with one another specifically in their capacity as members of the joint venture, the policy intention is to treat them as associates for this specific transaction, given their aligned economic interests in relation to the joint venture.

New section 2A(1)(dc) applies when two members of a joint venture transact with each other in their capacity as members of the joint venture, to ensure they are associated persons only for those transactions. This new association test applies to both flow-through joint ventures and ordinary joint ventures.

Example 57: Application of "associated persons" definition – flow-through joint venture

Land Co and Construction Co are members of a joint venture for a property development project, Development A. The joint venture is a flow-through joint venture.

Land Co is undertaking another property development, Development B, as part of its separate business, and engages Construction Co as a general contractor for Development B. Land Co and Construction Co are not in a joint venture for Development B.

In its capacity as a member of the joint venture, Construction Co acquires goods and services that will be used as inputs for Development A. Under flow-through treatment, Construction Co acquires 50% of those inputs as a principal and the remaining 50% as an agent on behalf of Land Co (meaning that Land Co instead of Construction Co is treated as acquiring 50% of those inputs under the agency rules).

Construction Co also acquired inputs that it originally intended to use in its own separate business that it has now decided to contribute to Development A. Construction Co on-charges 50% of the cost of those inputs to Land Co, meaning that Construction Co has sold 50% of those inputs to Land Co. This means that Construction Co has made a supply to Land Co in its capacity as a member of the joint venture. Therefore, Land Co and Construction Co are associated persons for this supply.

As a contractor for Development B, Construction Co also makes supplies to Land Co in relation to Development B. These supplies are not made by Construction Co in its capacity as a member of the joint venture. For these supplies, Land Co and Construction Co are not associated persons.

Example 58: Application of "associated persons" definition – ordinary joint venture

This example is a variation on Example 57. Instead of the joint venture being a flow-through joint venture, assume the joint venture is an ordinary joint venture and is registered for GST.

When Construction Co acquires goods and services that will be used as inputs of the joint venture in its capacity as a member of the joint venture, the joint venture (as a separate person) is treated as acquiring the goods and services instead of Construction Co. Therefore, there is no supply between Construction Co and the joint venture.

If the goods and services were instead acquired by Construction Co other than in its capacity as a member of the joint venture (such as when Construction Co contributes inputs to Development A that Construction Co originally acquired for use in its own separate business), the joint venture would not be treated as having acquired the goods and services instead of Construction Co. This means the supply from Construction Co to the joint venture is recognised as a supply for GST purposes. Since Construction Co and the joint venture are associated persons, this supply is an associated supply.

The conclusion regarding supplies by Construction Co to Land Co (in relation to Development B) is unchanged from Example 57. That is, Land Co and Construction Co are not associated persons for the supplies Construction Co makes as a contractor for Development B.

Other policy items

Employee share schemes tax deferral regime

Sections CE 7B(3), EA 4B, and YA 1 of the Income Tax Act 2007

Summary of amendments

The changes allow unlisted companies to elect into a regime where the tax liability for employees who receive shares or share options as part of an employee share scheme (ESS) can generally be deferred until the shares can be more easily valued and sold.

Effective date

The amendments take effect for share benefits provided on and from 1 April 2026.

Background

The objective of the ESS tax deferral regime is to address the valuation and liquidity issues that can arise for employees of unlisted companies who receive ESS tax benefits.

An ESS is when a company remunerates its employees with shares or share options in the company. This is common in (but by no means restricted to) the start-up sector, where cash constraints may make it difficult to offer talent competitive cash salaries. Because these shares are taxed the same way as cash remuneration, a tax liability will generally arise once employees own the shares without employment-related terms or conditions (or exercise the option if it is an option scheme). The amount of income is the value of the shares at that time.

However, the shares may be difficult to value if they are unlisted. This makes it difficult to calculate the tax liability on the shares. The employee may also have difficulty funding the tax liability because they may be unable to sell any of their shares.

The amendment addresses the issue of valuation and liquidity by deferring the share scheme taxing date for the shares, therefore deferring the date on which the value of the benefit must be calculated and the tax liability arises. The share scheme taxing date will arise at the time of a "liquidity event". At the point of a liquidity event, the shares will more easily be able to be valued, and the employee will generally have the ability to raise the funds to cover their tax liability.

Key features

The key features of the amendment are:

- The ESS tax deferral regime is not mandatory. It is at the discretion of the employer to offer shares under this regime to their employees by notifying the Commissioner and the employee within 20 days of issuing or transferring the shares. Employees who do not want the taxing

point to be deferred will need to ensure that the shares are not referred to as "employee deferred shares".

- Any unlisted company is eligible to elect into the employee share scheme tax deferral regime for shares issued or transferred to any employee on or after 1 April 2026.
- If the employer elects to designate shares as employee deferred shares, the share scheme taxing date for those shares is deferred to the date of the earliest "liquidity event". This means the amount of the employee's benefit (usually the market value of the shares less any cost to the employee) must be calculated on the date of the liquidity event. The resulting income for the employee, and corresponding expenditure or loss for the employer, in respect of the benefit is therefore also deferred.
- The following actions will trigger a liquidity event:
  - listing of the company
  - sale or cancellation of the shares.
- The liquidity event (and therefore the share scheme taxing date) for employee deferred shares is the earlier of the date on which the company is listed or the date on which the shares are sold or cancelled.
- Employers are required to report the issue of the ESS deferred tax shares within 20 days of issue.
- Employers are required to report any ESS benefit when it arises (taking into account the deferred taxing date) under the usual reporting provisions. In most cases an employer can choose whether to withhold tax. If no tax is withheld, the employee will have to pay tax through the end of the year tax return process.

Detailed analysis

Eligibility and accessing the deferral regime

Any unlisted company is eligible to offer shares under the ESS tax deferral regime to their employees after 1 April 2026. The employer does so by designating the offered shares as "employee deferred shares" within 20 days of issue or transfer by notifying the Commissioner and the employee. The employer should ensure that the employee understands that the shares are tax deferred shares.

Reporting

As part of reporting requirements, employers will need to identify when shares are employee deferred shares. This is because the Commissioner needs to be notified when shares are designated as "employee deferred shares" within 20 days of issue, and the employee's benefit will need to be reported when it arises taking into account the deferred share scheme taxing date. It is the unlisted company's responsibility to ensure that they are correctly designating shares as employee deferred shares and that any employment income reporting accurately reflects this.

Derived income

The ESS tax deferral regime will operate by deferring the share scheme taxing date – being the date on which the benefit from the share scheme is calculated. The benefit is calculated when triggered by a liquidity event, and the tax liability follows. Often the resulting income will be derived by the employee on the ESS deferral date, being 20 days after the share scheme taxing date. In most cases an employer can choose whether to withhold tax, meaning the employee will not need to pay tax through the end of year return process. If no tax is withheld, the employee will have to pay tax through the end of the year tax return process.

Listing of company

The listing of the company is a liquidity event and will trigger the share scheme taxing date and therefore calculation of the employee's benefit. The tax liability follows, with the employee's income usually arising on the ESS deferral date 20 days later. Once the company makes an initial public offering (IPO), the complications with valuation are reduced – the value of the share is the market price. At this point, the employee will generally be able to sell at least a portion of their shares so will have the funds to cover their tax liability.

Example 59: Listing of NewTech Company as a liquidity event

Bryn holds 1,000 employee deferred shares in NewTech Company, a successful start-up that is preparing for an IPO. NewTech Company is listed on NZX on 16 July 2026. This is a liquidity event for Bryn's deferred shares. On 16 July 2026, Bryn's benefit will need to be calculated, equal to the value of 1,000 shares in NewTech Company. Bryn's employment income will arise 20 days later, on the ESS deferral date, and the tax liability will follow. Because NewTech Company is now publicly trading, Bryn will generally be able to sell some or all of her shares on the NZX to fund her upcoming tax liability.

Sale or cancellation of shares

The sale or cancellation of shares is a liquidity event. The sales price (less cost) will be income to the employee, who will have access to the sale price to cover their tax liability.

Example 60: Sale of shares in XYZ Company as a liquidity event

On 1 April 2026, Piper starts working at unlisted start up XYZ Company. The company is fast-growing, developing new and exciting products. Until those products can be taken to market, it has restricted cash available for salaries and is unable to pay dividends. Piper receives 1,000 shares as part of her salary package to incentivise her performance. XYZ Company designates the shares as employee deferred shares, notifying the Commissioner and Piper of this at the time of transferring the shares to Piper.

XYZ Company attracts interest from ABC Co that sees value in the products it is developing. On 31 July 2031, ABC Co purchases all the shares in XYZ Company, including Piper's shares.

The share scheme taxing date arises on the earliest liquidity event, being the date Piper sells her shares under the transaction. The benefit therefore needs to be calculated on 31 July 2031. Piper's income will arise 20 days later, on the ESS deferral date.

XYZ Company will need to report Piper's benefit when it arises under the usual reporting provisions. If XYZ Company opts to withhold tax, Piper will not be required to pay tax through the end of the year tax return process. However, if XYZ Company does not withhold tax, Piper will be required to pay tax through the end of the year tax return process.

Rollover relief for some liquidity events

In situations when a liquidity event has occurred, but the taxpayer has not received an asset that can be liquidated or valued, then that taxpayer may be able to further defer their taxing date:

- If the listing of the company that issued or transferred the shares triggers a liquidity event, but the shares are subject to a "lock up" period or other restriction that prevents the sale of the shares, then the taxpayer's liquidity event date is deferred until that restriction ends.
- If the shares are cancelled, but the taxpayer is compensated with shares in a new company that qualifies for the deferral rules, then the cancellation of those shares will not be considered a liquidity event. The taxpayer's tax liability will then functionally be deferred until a liquidity event occurred in respect of those new shares.

Employee share schemes: Clarify timing of employers' deductions

Section DV 27(6) of the Income Tax Act 2007

Summary of amendment

The amendment clarifies the timing of an employer's expenditure or loss under section DV 27(6) of the Income Tax Act 2007 that is equal in amount to the income derived by the employee under the employee share scheme (ESS) rules.

Effective date

This amendment takes effect on 1 April 2026.

Background

Generally, employers providing ESS benefits have expenditure or loss under section DV 27(6) that matches the amount of income to employees under the ESS rules. However, there was a problem with identifying the timing of this expenditure because there was no specific rule.

Key features

The amendment defines when an employer's expenditure or loss under section DV 27(6) is deemed to arise. This change specifies that expenditure arises on the share scheme taxing date. This is regardless of the employee's income under the ESS rules generally arising 20 days later on the ESS deferral date (see section CE 2(7) to (9)).

Firms who entered into a merger or acquisition deal prior to 1 April 2026, but which is not effective until after 1 April 2026, are allowed to use the previous ESS deduction timing rules. This transitional provision has been introduced because the new rules could alter firm valuations (in respect to current mergers and acquisitions deals only), as deductions would now arise at a different time than anticipated.

Income from residential supply of excess electricity

Sections CW 61B and YA 1 of the Income Tax Act 2007

Summary of amendment

The Act introduces a tax exemption for income derived by an individual from the residential supply of excess electricity generated at a dwelling. The exemption applies only when the person deriving income is a resident of the dwelling. Amounts subject to the exemption are treated as exempt income of the individual, meaning individuals are not subject to tax or reporting requirements on that income. However, these individuals are no longer entitled to deductions for expenses relating to the supply of excess electricity.

Effective date

The amendment is effective for the 2026–27 and later income years.

Background

An individual can generate electricity from their residential property for their own use and sell any excess to their electricity retailer. The retailer either pays or provides a credit or discount to the individual for the electricity supplied.

Inland Revenue's technical interpretation is that, although dependent on the particular facts and legal arrangements, in many instances these amounts are likely to be assessable income under current law. Individuals would be subject to tax and reporting requirements on that income, and would be allowed deductions for expenditure incurred (for example, interest on a loan to install solar panels) and depreciation loss to the extent it relates to supplying excess electricity.

In many residential cases, high compliance costs are likely to arise from these tax obligations. In the absence of income derived from selling excess electricity, the majority of these individuals are not expected to be filing tax returns because their only other income would be salary, wages, and investment income subject to withholding tax. Due to the private limitation on deductions, individuals would also need to apportion expenditure based on how much electricity is used privately or sold to the retailer.[15]

[15] Section DA 2(2) of the ITA.

Key features

New section CW 61B of the Income Tax Act 2007 (ITA) provides that income derived by a natural person from the supply of excess electricity generated at a dwelling is exempt income.[16] Section CW 61B applies to the gross income an individual derives from excess electricity supplied (that is, without taking into account payments for electricity supplied by the retailer).

The exemption is limited to apply only when the person deriving the income is a resident of the dwelling (either as owner-occupier or tenant). This means that a landlord will generally not be eligible for the exemption.

For the purposes of section CW 61B, "excess electricity" means electricity that is generated but not consumed at a dwelling and is supplied to an electricity retailer. Under the ITA, "dwelling" refers to a residence or an abode, including appurtenances (with certain exclusions, for example, commercial accommodation such as hotels). This means that income derived from the supply of excess electricity generated at a commercial property is not exempt under section CW 61B.

Individuals are not subject to tax or reporting requirements on income that is exempt under section CW 61B. However, due to the exempt income limitation on deductions, they are no longer entitled to deductions for expenditure relating to the sale of excess electricity.[17]

Section CW 61B may apply in cases such as where the dwelling is a rental property, is on a farm, or where it is held on a trust. This will depend on the circumstances, and the following examples set out how section CW 61B may apply in these situations.

Example 61: Sale of excess electricity from rental property

Samantha is a tenant in a residential rental property with solar panels installed, which supply any excess electricity she does not consume to her electricity retailer. Samantha is the account holder, and each month she receives a bill for electricity supplied by the retailer. This is offset by a credit for any excess electricity supplied to the retailer from the solar panels on the property.

The following table sets out the electricity the solar panels generated in 2025, the amount supplied, and the income Samantha derived from the sale of excess electricity (assuming the retailer paid $0.20 per kilowatt-hour supplied):

[16] "Amount", "dwelling", and "natural person" as defined under section YA 1 and "exempt income" as defined under section BD 1(2) of the ITA.
[17] Section DA 2(3) of the ITA.

Electricity generated (kilowatt-hours)	Electricity supplied to retailer (kilowatt-hours)	Income ($)
6,000	4,000	800

The $800 derived from the sale of excess electricity will be Samantha's exempt income under section CW 61B. Although her landlord owns the solar panels, she receives the credit for excess electricity supplied against her electricity bill.

Section CW 61B provides that Samantha does not need to file a tax return for, or pay income tax on, the $800 she derived from the sale of excess electricity. Samantha's landlord can continue to deduct expenses (for example, depreciation of the solar generation asset) against their rental income.

Example 62: Sale of excess electricity from a residential property held on trust

David is a beneficiary of ABC trust, which holds a residential property with solar panels installed. David lives in the property and is the account holder with the retailer supplying electricity.

The solar panels are set up to supply any excess electricity David does not consume to his electricity retailer. He receives a payment from the electricity retailer for excess electricity supplied each month. Under section CW 61B, the income he derives is exempt from tax and reporting requirements.

However, in 2027, David is planning to move out of the property. The power account will be transferred to one of the trustees of ABC trust. Because natural persons acting in the capacity of trustee are specifically excluded from the definition of "natural person" in section YA 1, the income will no longer be exempt under section CW 61B.

This means that the trustee is required to pay tax on and file a tax return for any income they derive from the sale of excess electricity. However, they are also entitled to claim deductions for expenses related to this activity.

Example 63: Sale of excess electricity from a residence on a farm

Carl lives in a residence on his farm. He has installed solar panels on the roof of his residence, the garage, the barn, and on a bank in the paddock. The solar panels supply any excess electricity to his electricity retailer, which Carl receives a credit for against his monthly electricity bill.

Carl installed 20% of his solar panels on his residence and garage, and 80% on the barn and in the paddock. The income he derives from the supply of excess electricity generated by the solar panels on his residence and garage will be exempt under section CW 61B. This is because they are installed on a dwelling as defined in the ITA (which includes appurtenances, such as Carl's garage).

However, the income Carl derives from the supply of excess electricity generated by the solar panels on the barn and in the paddock will not be exempt under section CW 61B because they are part of his farm business and are not an appurtenance to his residence. Carl is required to pay tax on and file a tax return for this income (that is, 80% of his total income from the supply of excess electricity).

Aligning tax payments by NZSF with similar taxpayers

Sections RA 13(2B), RC 3(2)(e) and (f), and RP 17B(2)(b) of the Income Tax Act 2007

Summary of amendment

The amendment allows the New Zealand Superannuation Fund (NZSF), Venture Capital Fund (VCF), and certain wholly-owned Crown companies (under section HR 4B(3) of the Income Tax Act 2007) to pay income tax annually instead of provisional tax.

Effective date

The amendment applies for the 2026–27 and later income years.

Background

The NZSF was created to help taxpayers manage the cost of New Zealand Superannuation. It currently pays provisional tax in three instalments during the income year.

Due to the volatility of investment markets, it is impossible for the NZSF to accurately estimate its provisional tax liability for the year. This often leads to significant underpayments or overpayments of provisional tax.

This is inefficient for both the NZSF and taxpayers. Overpayment ties up funds that could otherwise be invested and, conversely, underpayment results in interest costs, at a loss to the Government.

This annual tax payment is not new. Multi-rate portfolio investment entities, for example, some KiwiSaver funds, have the option to exempt themselves from provisional tax and instead pay their income tax liability (excluding exiting investors) at the end of the tax year. The NZSF and VCF are similar vehicles to KiwiSaver funds.

Income tax debt pilot with tax pooling industry

Section RP 17C of the Income Tax Act 2007

Summary of amendment

The amendment extends the period for which tax pooling can be used to pay income tax until 1 October 2027 for the 2022–23 and 2023–24 income years if certain conditions are met.

Effective date

The amendment takes effect on31 March 2026.

Background

Tax pooling intermediaries facilitate the payment of tax by pooling tax payments and provide a mechanism to offset underpayments and overpayments of provisional tax between taxpayers. This can result in more favourable interest rates than standard use of money interest rates and help mitigate late payment penalties.

Tax pooling typically cannot be used for any tax or use of money interest after 75 days[18] from a taxpayer's terminal tax date (except in specific cases such as a reassessment).

The extension of the period for which tax pooling can be used to pay income tax for a target population may enable Inland Revenue to determine whether income tax debt can be effectively collected through an extended tax pooling period.

Key features

If certain conditions are met, a person can make a contract with a tax pooling intermediary on or before 1 October 2026 to satisfy an obligation for either or both the 2022–23 and 2023–24 income years for:

- provisional tax (other than under the accounting income method)
- terminal tax, or
- interest under Part 7 of the Tax Administration Act 1994 (TAA) on the provisional tax or terminal tax.

The contract must be settled by 1 October 2027.

[18] Or 76 days for some terminal tax dates in a leap year.

Detailed analysis

Conditions

To be eligible for the extended tax pooling period, the following conditions have to be met by the taxpayer.

On the date the contract is entered into, the taxpayer must not:

- be bankrupt or liquidated
- be presumed to be unable to pay debts under section 287 of the Companies Act 1993 at some time in the previous 12 months
- have committed an act of bankruptcy under the Insolvency Act 2006 at some time in the previous 12 months, or
- be the subject of legal recovery proceedings for unpaid tax.

And on the date the contract is entered into, the taxpayer must have provided:

- returns of income as required under section 33 of the TAA
- returns as required under the Goods and Services Tax Act 1985 (GST Act), and
- employment income information to the Commissioner of Inland Revenue as required under sections 23E to 23H and 23J of the TAA.

And on the date the contract is entered into, the taxpayer must not have any of the following amounts payable for which the due date for payment has already passed:

- goods and services tax payable under section 23 of the GST Act, and
- an amount set out in section RA 5 of the Income Tax Act 2007 (Tax obligations for employment-related taxes).

The Commissioner may waive some or all of the above conditions if the Commissioner has accepted a request for financial relief under section 177 of the TAA.

Information disclosure by way of Ministerial agreement

Sections 3(1) and 18HB of the Tax Administration Act 1994

Summary of amendment

The amendment enables the Commissioner of Inland Revenue to disclose certain information to another government agency for a defined purpose pursuant to a Ministerial agreement signed by both Ministers.

Effective date

The amendment takes effect on 1 April 2026.

Background

Inland Revenue has broad information collection powers when the information is necessary and relevant to the collection of tax or the administration of the tax system. These powers are balanced by a strict confidentiality rule, which requires "sensitive revenue information" to be kept confidential. The disclosure of information to other agencies to enable them to undertake their functions and duties requires a legislative exception to override the confidentiality rule.

Inland Revenue has information that other agencies could use and sharing it could lead to greater administrative efficiency, especially for law enforcement. The tax confidentiality provisions limit Inland Revenue's ability to disclose information in a timely manner when the Government considers that disclosure is within the social licence and warranted for the benefit of New Zealanders. Examples include to combat organised crime or verifying entitlement to a government subsidy. The existing disclosure methods, approved information sharing agreements (AISA) under the Privacy Act 2020 or changes to legislation, take 18 months or more to conclude and do not enable the Government to act quickly when required.

Key features

A new provision in tax legislation allows the Commissioner to disclose information to another government agency pursuant to a Ministerial agreement to enable another agency to undertake certain functions.

Prior to concluding a Ministerial agreement, Ministers will be required to consult with the Office of the Privacy Commissioner and have regard to any comments received from the Privacy Commissioner.

Information will be disclosed to assist the other agency to undertake certain functions and duties, namely:

- to determine entitlement to or eligibility for government assistance, or
- the detection, investigation, prosecution, or punishment of suspected, or actual crimes punishable by terms of imprisonment of two years or more, or
- removing the financial benefit of crime.

Ministerial agreements will set out:

- the type or class of information to be disclosed
- the purposes for which the information is accessed
- the uses to which the information is put to fulfil the other agency's functions, and
- the safeguards for the protection of personal information or commercially sensitive information that is disclosed.

The agreement will also set out the storage and disposal arrangements for the disclosed information, and who in the other agency can access the information. Restrictions are also placed on the on-sharing of information by the other agency.

Another safeguard is that although the Commissioner may disclose information, they will not be required to if disclosure will undermine the integrity of the tax system. This protects Inland Revenue's ability to continue to collect information and tax in the future.

To increase the transparency of these Ministerial agreements, the name of the agreement, the parties to the agreement, the classes of the information disclosed, the purpose for disclosure, and the use the information will be put to, will be disclosed on Inland Revenue's website. Inland Revenue will also report on the operation of each agreement in its annual report.

This amendment only enables Inland Revenue to disclose information to other agencies. If Inland Revenue requires information from another agency, then the use of Inland Revenue's information collection powers or an AISA would be a more appropriate mechanism.

Repeal section 17GB of TAA

Sections 17C(1), 17E(1) and (2), 17GB, 17H(1), 20(1) and (4), 20B(1), 20D(4)(b), 20F(2)(b) of the Tax Administration Act 1994

Summary of amendment

The amendment repeals section 17GB of the Tax Administration Act 1994 (TAA). Section 17GB allows the Commissioner of Inland Revenue to collect information for a purpose relating to the development of policy for the improvement or reform of the tax system.

Effective date

The amendment takes effect on 31 March 2026.

Background

Section 17GB of the TAA was inserted by the Taxation (Income Tax Rate and Other Amendments) Act 2020 in December 2020. The section clarified that the Commissioner's information-gathering powers included being able to require persons to provide information solely for purposes relating to tax policy development.

The amendment aims to increase taxpayer privacy by repealing section 17GB.

Inland Revenue will continue to be able to use administrative data from other sources to support policy development.

Repeal of legislative provisions for trust disclosures

Section YA 1 of the Income Tax Act 2007
Sections 3(1), 59BA, 59BAB, 79, 80, and 227H of the Tax Administration Act 1994
Clauses 3(1), 4, and 5(2)(a) of the Tax Administration (Financial Statements—Domestic Trusts) Order 2022

Summary of amendment

The amendment repeals the specific legislative provisions for trust disclosures. The Commissioner of Inland Revenue is currently considering what information he will continue to collect from trustees under his general powers.

Effective date

The amendment applies for the 2026–27 and later income years.

Background

The additional disclosure requirements for trustees were introduced for the 2021–22 and later income years. In March 2022, the Tax Administration (Financial Statements—Domestic Trusts) Order 2022 (the Order) was made to set the minimum requirements for financial statements prepared by trusts that are subject to the disclosure rules.

The specific disclosure provisions require trustees of trusts that derive assessable income for a tax year to prepare financial statements and disclose details of settlements, settlors, distributions, beneficiaries, persons with powers of appointment, and other information required by the Commissioner.

Certain classes of trusts and trustees are excluded from the disclosure regime, including trustees of non-active trusts, foreign trusts, charitable trusts, and trusts eligible to become Māori authorities.

Detailed analysis

The legislative provisions for the trust disclosure provisions are not necessary for the Commissioner to be able to collect information from trustees because the Commissioner has broad powers to do this under sections 33 and 35 of the Tax Administration Act 1994 (TAA). The amendment repeals the specific legislative provisions for trust disclosures in sections 59BA and 59BAB of the TAA. Consequential amendments have been made to remove references to these sections.

Amendments have also been made to the Order setting minimum requirements for preparing financial statements. This ensures the Order continues to apply to trustees currently filing returns under the specific disclosure provisions when those provisions are repealed.

The Commissioner is currently considering what information will continue to be collected from trustees under the Commissioner powers in sections 33 and 35. Therefore, the Commissioner may continue to collect substantially the same information on trusts under these general powers. This will be communicated to taxpayers when the returns are finalised for the 2026–27 tax year.

Updated information sharing for proceeds of crime

Section 3(1) and schedule 7, part A, clause 6 of the Tax Administration Act 1994
Section 98(2)(b) of the Criminal Proceeds (Recovery) Act 2009

Summary of amendments

The amendments enable Inland Revenue to disclose updated information about a person to the New Zealand Police to maintain the accuracy of Inland Revenue information already held by the Police.

Effective date

The amendment takes effect on 1 April 2026.

Background

The purpose of the proceeds of crime regime, under the Criminal Proceeds (Recovery) Act 2009 (CPRA), is to prevent a person from profiting from crime by forfeiting property or value of income derived from significant criminal activity.[19] Assets forfeited to the Crown are used to fund targeted programmes that reduce violent crime and address crime-related harm.

An Inland Revenue officer may disclose sensitive revenue information when the disclosure to a person or entity is specified in the Tax Administration Act 1994 (TAA), including information disclosed for the purposes of taking civil recovery action under the proceeds of crime regime. Currently, on request, the Commissioner of Inland Revenue (the Commissioner) can disclose information held about a person for the purpose of establishing whether a prima facie case exists[20] for the Commissioner of Police to take civil recovery action under the CPRA.

In some situations, where a prima facie case has been established and the proceeds of crime proceedings have been initiated against a person, the legal process may continue for an extended period of time, during which previously disclosed information may become outdated or inaccurate. This may have serious implications when the Inland Revenue information is being relied on by the Police or the Courts when deciding whether to advance a civil forfeiture order against the person.

To address this issue, previously disclosed information should be updated with the latest information held by Inland Revenue to ensure the information held by the Police is accurate and up

[19] Offending liable to a maximum term of five years imprisonment (or higher) or offending that has resulted in proceeds of $30,000 or more (section 6 of the CPRA).
[20] The prima facie can be established at several stages of a proceeds of crime case, when the Police are seeking a restraining order, extension of restraining, or forfeiture order.

to date. The updated information disclosed ensures the Police and the courts have accurate Inland Revenue information, leading to good decision making.

Accuracy of information is one of the 13 privacy principles that govern how agencies can collect, store, use and share personal information.

Key features

The Act amends schedule 7, part A, clause 6 of the TAA to enable Inland Revenue to disclose updated information to the Police, ensuring the information previously disclosed under the existing rules remains accurate and up to date.

The Act also amends section 98 of the CPRA to enable a Police authorised person to request, receive and use the updated information disclosed to them under the CPRA.

Updated information means information that:

- relates to information previously disclosed under the existing information disclosure rules
- that is readily available to the Commissioner, and
- does not include information about another person that was not referred to in the earlier disclosure, unless the updated information about another person relates to the name of a new employer or new financial services provider.

Personal information means information that identifies a person, date of birth (if relevant), and their contact details.

The version of "updated information" is the most up-to-date version of the information held by the Commissioner at the time the disclosure is made to the Police.

Detailed analysis

Under section 98(1) of the CPRA, the Commissioner of Police (or their authorised officer) can make a request to the Commissioner of Inland Revenue (or their authorised officer) for information held by Inland Revenue about a person when that information is required for the purposes of establishing whether a prima facie case exists for taking civil recovery action. Schedule 7 of the TAA allows the Commissioner to disclose information held by Inland Revenue in accordance with section 98(2)(b) of the CPRA.

Amendments to schedule 7, part A, clause 6 also allow the Commissioner to disclose updated information about a person for the purposes of ensuring previously disclosed information remains accurate and up to date.

The reference to the Commissioner in new clause 6(1) of schedule 7 is to the Commissioner of Inland Revenue.

The ordinary meaning of "accurate" and "up to date" applies. The information disclosed must be correct and precise, reflecting the latest version of the information available to the Commissioner at the time it is disclosed to the Police.

Consequential amendment to CPRA

A consequential amendment to section 98(2)(b) of the CPRA reflects the changes in the TAA. This allows the Police, operating under the proceeds of crime regime, to formally request and obtain updates from Inland Revenue to the information Police already hold so it remains accurate and up to date.

As a result of the amendments above, a drafting amendment to section 98(2), aligns it with the relevant disclosure rule in schedule 7, clause 6 of the TAA. This drafting amendment does not alter the interpretation of section 98, nor will it affect the nature of the information that may be requested from Inland Revenue for the purposes of determining whether a prima facie case exists.

Updated information

The definition of updated information means information that relates to information previously disclosed under the existing information disclosure rules. The connection to the information previously disclosed can include personal information, financial information or tax and social policy information, and may include personal information about another person, such as an employer or bank (that is, their bank account) held by the Commissioner. The information will enable the Police to provide up-to-date information to the courts in relation to civil recovery action initiated under the CPRA.

The updated information will have to be readily available to the Commissioner. Also, the Commissioner will not be expected to use their specialised information collection powers solely for the purposes of fulfilling a Police request for updated information. However, as under the existing rules, information previously obtained by the Commissioner using their information collection powers for tax purposes (such as maintain the integrity of the tax system), can be included in information that is subsequently disclosed to the Police.

There may be circumstances when a situation has led to the information previously disclosed becoming inaccurate, however the Commissioner cannot disclose the precise information that evidences this because there is insufficient connection to the information previously disclosed. In these situations, it may be appropriate for the Commissioner to disclose a summary of the situation and information (if possible) about the actions that lead to the original information held by the Police now becoming inaccurate.

Personal information about other persons

The updated information cannot include information about another person, if that person was not referred to in the information disclosed under schedule 7, clause 6(1)(a), unless they have a

relationship for employment (that is, the person's employer) or an enterprise that is carrying on a business of providing a financial service (such as a bank or financial advisor). The ordinary meaning of "financial services" will apply, which encompasses other forms of digital financial services and cryptocurrency services.

When the person does have a relationship with another person by way of an employment or financial services provider, then this other person's personal information can be disclosed to the Police. Personal information is defined as information that identifies a person (which can include an entity),[21] their date of birth (if applicable), and their contact details.

Operational requirements

The updated information disclosed to the Police will be governed by the existing operational procedures and requirements that currently apply to the existing information disclosure in the CPRA and will be further outlined in the operational memorandum of understanding.

Similarly, the information disclosure process (and the records pertaining to the information disclosed) will be administered by authorised persons within a specialised and compartmentalised unit within Inland Revenue.

Example 64: Personal information such as name, location, contact number

On 1 July 2025, a request is made by a Police authorised person for Inland Revenue information held about Mary, required for the purpose of establishing whether a prima facie case exists for taking civil action. This information incudes Mary's full name, address and contact information. This information was disclosed on 5 July 2025, with a prima facie case being established against Mary. On 15 August 2025, Mary relocated to another address. On 30 April 2026, a Police authorised person requests updated information from Inland Revenue about Mary. This includes her address.

Inland Revenue discloses the updated information about Mary, including her new address to the Police authorised person. This updated information is correct and precise. The address relates to information that was previously disclosed. The new address is readily available to the Commissioner. The new address is disclosed to maintain the accuracy of information already held by the Police for the proceeds of crime regime.

[21] Definition of "person" in section 13 of the Legislation Act 2019.

Example 65: Change in employer to a new employer

On 15 August 2026, a request is made by a Police authorised person for Inland Revenue information held about James, including the name of James' employer. This information was disclosed on 30 August 2026, with the information being used to establish a prima facie case against James. On 1 October 2026, James resigned from this job and immediately began work with another employer. On 1 December 2026, a Police authorised person requests updated information from Inland Revenue about James, including the name of his employer.

Inland Revenue discloses the updated information, including the name of James' new employer to the Police authorised person. This updated information is correct and precise. The employer's name relates to information previously disclosed. The new employer's name is readily available to the Commissioner.

The new employer's name was not included in information contained in the earlier information disclosure, however James has an employment relationship with this other person. The information disclosed is the new employer's name and contact information.

Alternative

On 30 August 2026, James was not employed as an employee (ie, unemployed), so the Inland Revenue information disclosed was that no active employer information was available. On 1 October 2026, James began working for ABC Limited. On 1 December 2026, the name and contact details of ABC Limited (as his active employer) were disclosed as updated information about James.

This is because although no active employer information was included on 30 August 2026 due to the absence of an employer relationship, the information nonetheless pertained to James' employment status at the time. This means the updated information about James' new employer, ABC Limited, relates to information previously disclosed. If James was instead receiving a benefit payment (where income tax was deducted) on 30 August 2026, then this information will have been disclosed and, correspondingly, the name and contact details of his new employer ABC Limited will be disclosed.

Example 66: Change of bank and new bank account number (includes joint bank account)

On 1 August 2026, a request is made by the Police for Inland Revenue information held about Tim, including any bank account information. This information was disclosed on 5 September 2026, with the information being used to establish a prima facie case against Tim. On 30 September 2026, Tim closed his bank account and moved his personal banking services to another bank. On 1 November 2026, the Police requested updated information about Tim, including his bank account information.

Inland Revenue disclosed the updated information about Tim, including his new bank account number. This updated information is correct and precise. The bank account information relates to information that was previously disclosed and is information that is readily available to the Commissioner.

The updated information does include information about a new person or entity (being the new bank) not referred to in the earlier information disclosure. However, Tim has a formal relationship with this other person who is carrying on a business of providing financial services. The information disclosed is the new bank's name. The new bank account number is disclosed to maintain the accuracy of information already held by the Police for the proceeds of crime regime.

Alternative

Prior to 1 August 2026, Tim's bank account was instead a joint account with Sarah. On request, the joint bank account information was disclosed on 5 July 2026. On 30 September 2026, Tim closed the bank account and moved his banking services to another bank, which included opening a new joint bank account with Olivia. On 1 November 2026, the Police requested updated information about Tim, including his bank account information.

Inland Revenue disclosed the updated information, including Tim's new bank and account number to the Police. This updated information is correct and precise, and the bank and account information relates to information that was previously disclosed. The new bank and account number is readily available to the Commissioner.

The updated information does include information about both the new bank and the new joint owner on the bank account not referred to in the earlier information disclosure. Tim has a formal relationship with this new bank, so the information disclosed is the new bank's name. The new bank account number is disclosed to maintain the accuracy of information already held by the Police for the proceeds of crime regime.

However, Inland Revenue is aware the new bank account is a joint bank account with a new person who was not referred to in the earlier information disclosure. Tim does not have a relationship for employment or for financial services with Olivia, so her personal information cannot be disclosed as part of the updated information.

Example 67: Change in tax period information due to filed tax return

On 30 August 2026, the Police request Inland Revenue information held about Mike, including tax period information for the 2024 income tax period (including tax period balance). The 2024 tax return was yet to be filed so the tax period information is blank. This information about Mike was disclosed on 15 September 2026, with the information being used to establish a prima facie case against Mike. On 1 February 2027, Mike filed his 2024 income tax return, resulting in a $5,000 tax liability. On 1 July 2027, the Police request updated information about Mike, including tax period information.

Inland Revenue disclosed the tax period information (including tax return), for the 2024 tax period. This updated information is accurate because it is based on a completed and filed tax return and is the latest tax period information. The tax return information relates to a tax period that was disclosed as part of the earlier information disclosure and is readily available to the Commissioner.

Example 68: Change in tax period balance and tax liability due to payment received by Inland Revenue

On 1 October 2025, the Police request information about Robert, including prior tax period balances. The 2023 income tax period balance was a tax debt of $50,000. This information about Robert was disclosed on 15 October 2025, with the information being used to establish a prima facie case against him. On 1 February 2026, Robert paid $45,000 towards his tax debt, resulting in a balance of $5,100 (including use of money interest) to pay. On 1 July 2026, the Police request updated information about Robert, including tax period balance information.

Inland Revenue disclosed the tax period balance information. This updated information is accurate and is based on latest tax period balance information. The tax return information relates to a tax period that was disclosed as part of the earlier information disclosure and is information that is readily available to the Commissioner.

The change in tax period balance was due to a payment received, so while the payment details may not be provided, an explanation for why the tax period liability has changed could be disclosed as part of the updated information.

Example 69: Request for person's cryptocurrency information

On 1 March 2027, the Police request information about Mark, including any cryptocurrency information held by Inland Revenue. Inland Revenue holds cryptocurrency transaction information about Mark from a cryptocurrency exchange platform, Round-Coin. This information about Mark was disclosed on 20 March 2027. On 1 July 2027, the Police request updated information about Mark, including any cryptocurrency information, which now includes cryptocurrency transaction information from another exchange platform Square-Coin.

Inland Revenue disclosed Mark's updated cryptocurrency transaction information from Round-Coin and Square-Coin to the Police. This updated information is correct and precise. The cryptocurrency information relates to information that was previously disclosed, and the cryptocurrency information is readily available to the Commissioner.

The updated information does include information about a person (the cryptocurrency exchange Square-Coin) not referred to in the earlier information disclosure. However, Mark has a formal relationship with this other person who is carrying on the business of a

cryptocurrency exchange. The information disclosed is the new trading platform's name and contact details.

The cryptocurrency information is disclosed to maintain the accuracy of cryptocurrency information already held by the Police.

Example 70: Audit file includes future tax periods and associated tax period information

On 1 September 2027, the Police request information about Luke, including information about prior tax periods, including any audit files. The 2025 income tax period is currently subject to a tax audit being conducted by Inland Revenue, and on 20 September 2027, the Commissioner disclosed the 2025 income tax period information (including the latest version of the audit file) to the Police.

Since 20 September 2027, the audit expanded into several GST periods, including monthly GST periods for October 2027 and December 2027. This resulted in an October 2027 GST liability of $5,000 (which was paid in full), and the December 2027 GST liability of $20,000 (including a 20% shortfall penalty), which was included under an 18-month instalment arrangement commencing 1 May 2028.

On 1 July 2028, the Police request updated information about Luke, including the latest version of the audit file and changes to any prior tax periods.

Inland Revenue disclosed the updated information, including the tax period balance information for the tax periods included in the tax audit, and the now finalised audit file. This updated information is accurate because it is based on the latest tax period balance information and the latest version of the audit file held by Inland Revenue and is readily available. Inland Revenue also disclosed information explaining that the audit resulted in a shortfall penalty being imposed on the December 2027 GST period and the tax debt is being paid under an instalment arrangement.

Alternative

After the information disclosure on 20 September 2027, the tax audit was expanded to GST periods of October and December 2027 in a related business of Luke and Scott called DEF Limited. This information was included in the tax audit file.

On 1 July 2028, the Police request updated information about Luke, including the latest version of the audit file and changes to any prior tax periods.

The updated information (being the audit file) contains information about future GST periods under audit, however the information relates to an associate of the person that has neither a relationship for employment nor carrying on a business of providing a financial service. Because of this, information about Scott and DEF Limited cannot be disclosed as updated

information and must be removed from the audit file before the information is disclosed to the Police as updated information.

Example 71: Disclosure of incomplete tax audit file

On 1 November 2027, the Police request information held about Brian, including information about prior tax periods. Brian's March 2027 GST period is currently subject to a tax audit. On 10 November 2027, the Commissioner discloses the March 2027 GST period (including the latest version of the audit file) to the Police. On 1 February 2028, the Police request updated information about Brian, including the latest version of the audit file and changes to prior tax periods that were disclosed on 10 November 2027. At this point of time, the tax audit remains ongoing.

Inland Revenue disclosed the updated information, including the tax period balance information for the tax period under audit, including the incomplete audit file. This updated information is accurate because it is based on the latest tax period balance information and the latest version of the audit file held by the Commissioner. The tax return information relates to a tax period that was previously disclosed and the updated information is readily available to the Commissioner. A summary is included with the updated information explaining that the tax audit is ongoing.

In-work tax credit increase

Sections MD 10(3)(a) and MF 4L of the Income Tax Act 2007

Summary of amendment

The amendment makes a temporary $50 per week increase to the rate of in-work tax credit to help working families with increased fuel costs.

Effective date

The amendment takes effect on 1 April 2026.

Background

The in-work tax credit provides support to working families with children, to help increase the returns from working.

Fuel prices have increased over the last month, making it harder for working families to travel to work and to take children to school. This is putting pressure on household budgets. The Government wants to support working families to remain in work.

Key features

The $50 per week increase is achieved by increasing the annual rate from $5,070 to $7,670. The increase is temporary. It either:

- lasts for the 2026–27 tax year (from 1 April 2026 to 31 March 2027), **or**
- ends earlier at a date set by Order in Council.

If petrol prices return to more usual levels, as monitored by MBIE, before 31 March 2027, the Government will issue an Order in Council with an earlier end date. In this situation, the weekly payments will be determined though new section MF 4L of the Income Tax Act 2007, with weekly payments returning to previous levels after the date set by Order in Council.

No other changes have been made to the in-work tax credit eligibility. There are no changes to any other Working for Families tax credit. This includes making no changes to the minimum family tax credit, so that the increase in in-work tax credit can also be received by recipients of the minimum family tax credit.

Student loans – discretion to provide relief from interest

Sections 138A, 141(1)(b), 141B, 145(1)(aa) and (2), 145A, 154(1A), 184(1)(aa) and (2), and 196(1)(a) and (b) of the Student Loan Scheme Act 2011

Summary of amendment

The amendments introduce a legislative discretion to allow the Commissioner of Inland Revenue to provide some relief from interest that applies to a student loan when a borrower is overseas based. The amendments extend the existing discretion to provide relief from late payment interest to core loan interest when the Commissioner considers it equitable.

Effective date

The amendments take effect on 31 March 2026.

Background

Previously, the Commissioner could only provide relief from late payment interest on student loans (that is, interest that applies when a borrower does not make a payment on time). The Commissioner did not have the discretion to provide relief from interest charged on student loans more generally (that is, interest that applies when a borrower is overseas based).

Interest charged on student loans can be a significant driver of debt accumulation over time. Correspondence and direct engagement with borrowers indicate that, for some overseas-based borrowers (OBBs), accrued interest has resulted in debts becoming so large that they disengage from Inland Revenue altogether. While some OBBs acknowledge responsibility for their circumstances, many sought greater flexibility to negotiate settlement of their loan, particularly through the ability to obtain relief from interest.

The amendments give the Commissioner the discretion to provide some relief from interest. The discretion is broad in nature and exercisable when the Commissioner considers some relief is equitable. Use of the term "equitable" is a decision-making consideration that means people in similar situations will be treated consistently. To qualify for any relief the loan will have to be repaid in full, either in a lump sum payment or through a short-term instalment arrangement.

Key features

The amendments:

- introduce a discretion to allow the Commissioner to provide some relief from core student loan interest, and

- allow borrowers to enter instalment arrangements for full settlement of their loans (and interest is cancelled for the duration of these arrangements provided the borrower remains compliant with the arrangement).

Detailed analysis

The amendments to the Student Loan Scheme Act 2011 are summarised in the table below.

Section reference	Section title	Description
145A (new section)	Commissioner may grant relief from loan interest	This section contains the discretion to provide some relief from loan interest if a borrower has loan interest, applies for relief, and agrees an amount with the Commissioner to repay their loan balance in full. Subsection (2) provides that the Commissioner (having regard to the circumstances and if the Commissioner considers it equitable) can write off as much loan interest as he considers equitable. Subsection (3) provides that the borrower's consolidated loan balance can be decreased either by decreasing the borrower's loan balance when the interest has been added to their loan balance or by decreasing their consolidated loan balance itself because the interest has been calculated and accrued but not yet charged and added to their loan balance (because it does not update on a real-time basis). Subsection (4) allows the Commissioner to reverse the amount that was written off if it was written off due to false or misleading information provided by the borrower.
138A (new section)	Loan interest cancelled if instalment arrangement complied with	This section provides that, when a borrower enters an instalment arrangement for the agreed amount to repay their loan balance, their loan interest will be cancelled for the period of the arrangement. This is intended to ensure that when a borrower enters such an arrangement for an agreed amount, the amount will not increase because of loan interest. However, if a borrower does not comply with the arrangement, this section will not apply, and loan interest will apply.
141B (new section)	Late payment interest cancelled if instalment	This section provides that when a borrower enters an instalment arrangement for an agreed amount to

Section reference	Section title	Description
	arrangement complied with	repay their loan balance, their late payment interest (on any unpaid amount) will be cancelled. However, if a borrower does not comply with the arrangement, this section will not apply, and late payment interest will apply to the unpaid amount.
141(1)(b)	Late payment interest reduced if instalment arrangement complied with	This amendment ensures no conflict exists between this provision and the new section 141B. If the instalment arrangement is in accordance with new section 154(1B) and new section 141B applies to cancel the late payment interest, this provision for a reduced rate of late payment interest will not apply. However, if the borrower does not comply with their obligations under new section 141B, late payment interest will no longer be cancelled, and this provision could apply to reduce late payment interest for those months in which the borrower was compliant.
145(1)(aa) and (2)	Application for different types of relief for borrower	These amendments allow a borrower to apply for relief from loan interest by notifying the Commissioner.
154(1B)	Application for instalment arrangement	This new subsection allows a borrower to apply to enter an instalment arrangement for an amount they have agreed with the Commissioner that is required for the borrower to repay their consolidated loan balance in full.
184(1)(aa) and (2)	Challenge to decision concerning relief	These amendments allow a borrower to challenge a decision made under the new relief provision, section 145A.
196(1)(a) and (b)	Cancellation of interest if consolidated loan balance repaid early	These amendments ensure the notice the Commissioner sends (in cases of full and final settlement) reflects the amount required to repay the borrower's consolidated loan balance.

Power to change FamilyBoost settings by Order in Council

Section MH 6 of the Income Tax Act 2007

Summary of amendment

The amendment introduces a provision to allow specific FamilyBoost policy settings to be adjusted by Order in Council.

Effective date

The amendment takes effect on 31 March 2026.

Background

FamilyBoost is a childcare tax credit that provides parents or caregivers with a rebate based on a percentage of their early childhood education fees, up to a maximum fees cap. An income test also applies.

FamilyBoost policy settings are set in the Income Tax Act 2007 and can only be changed through amending legislation. Adjustments to FamilyBoost settings will be required to ensure the policy remains effective over time. This may require changes to be made quickly to respond to changes in prices or income levels, subject to overall fiscal objectives.

Other social policy products in the Income Tax Act 2007, including certain settings of the Working for Families tax credits, can be adjusted by Order in Council. Other early childhood education subsidies, including childcare assistance in the Social Security Act 2018, can also be adjusted by Order in Council.

Key features

There will be limitations to the use of this Order in Council power.

- Policy settings can only be changed in a way that expands eligibility or increases the payment amount, so providing more support to FamilyBoost recipients. This includes changes to the rebate rate, maximum payment amount, upper income threshold, or the abatement rate.
- A change to restrict eligibility or reduce payments will still require an amendment to primary legislation and cannot be done through this Order in Council provision.
- An Order in Council made under this provision will come into effect at the start of a FamilyBoost quarter – either 1 January, 1 April, 1 July or 1 October.

Powers for Commissioner to set certain rates

Sections EX 55, RA 21, RC 38(4)(a), RZ 17, and YA 1 of the Income Tax Act 2007

Sections 90B, 91AAO, 91AAP, 120C(1), 120H, 120OB(2), and 227I of the Tax Administration Act 1994

Summary of amendments

These amendments streamline the process of setting interest rates and other taxable amounts including use of money interest (UOMI), fringe benefit tax (FBT) prescribed rate, and deemed rate of return (DRR) for foreign investment funds (FIF) under the Tax Administration Act 1994 (TAA) and the Income Tax Act 2007 (ITA).

The amendments also enact the formulae for setting each of the UOMI, FBT and DRR rates. Transitional provisions to ensure continuation of existing Orders in Council until the effective date of any determinations have also been enacted for each of these rates.

Effective date

The amendments take effect on 31 March 2026.

Background

The ITA and TAA contain several provisions allowing the periodic setting of interest or other rates by Order in Council. These include:

- rules in the TAA setting UOMI for underpayments or overpayments of tax
- rules in the ITA that impose FBT when employment-related loans are made at less than a prescribed rate of interest, and
- rules in the ITA setting a DRR for certain interests in foreign investment funds.

UOMI

The UOMI rates encourage taxpayers to pay the correct amount of tax on time. They apply to all revenue and duties. The two UOMI rates formerly set by Order in Council and now set by determination are:

- the taxpayer's paying rate (UOMI underpayment rate) – charged on underpayments of tax to Inland Revenue, and
- the Commissioner's paying rate (UOMI overpayment rate) – paid by the Commissioner on overpayments of tax to Inland Revenue.

FBT

The FBT rules tax non-cash benefits provided to employees, including any employment-related loans on which the employer is charging a rate of interest that is below the market rate. The difference in interest is taxable. A prescribed rate, now set by determination, is a proxy for the market rate of interest an employee might otherwise have to pay on a loan.

DRR

The FIF rules tax New Zealand residents on certain non-controlling investments in foreign companies, foreign superannuation schemes, and life insurance policies. The DRR method is one method for calculating FIF income. The DRR under the FIF rules is now set annually by determination.

It is considered that using determination-making processes that the Commissioner is very familiar with is more effective and streamlined than the former Order in Council process.

Key features

Relevant existing powers and Order in Council mechanisms have been repealed. Instead, the power to set each of these three rates has been statutorily vested in the Commissioner as secondary legislation. The powers follow the same processes that were formerly used for setting these rates. The formula used to set these rates has been included in the legislation.

UOMI

Commissioner's determination powers

Section 120H of the TAA has been amended to allow the Commissioner to set and vary UOMI rates by determination, rather than by Order in Council.

Legislatively incorporating formula for setting UOMI

Section 120H of the TAA incorporates the formula used for setting the UOMI rate for overpayments and underpayments into the legislation.

The taxpayer's paying rate is required to be set at the Reserve Bank of New Zealand's floating first mortgage new customer housing interest rate plus 250 basis points.

The Commissioner's paying rate is required to be set at the higher of:

- the Reserve Bank of New Zealand 90-day bank bill rate less 100 basis points, and
- 0%.

Revocation of regulations

The Taxation (Use of Money Interest Rates Setting Process) Regulations 1997 and the Taxation (Use of Money Interest Rates) Regulations 1998 have been revoked.

Transitional provision

Section 227I of the TAA is a transitional provision that covers the period between 31 March 2026 (the date the Act came into force) and the Commissioner setting new rates by determination. It ensures that in that period the UOMI rates continue to be those previously set under the Taxation (Use of Money Interest Rates) Regulations 1998.

FBT prescribed rate

Commissioner's determination powers

Section 90B of the TAA empowers the Commissioner to determine the FBT prescribed rate of interest for employment-related loans.

Legislatively incorporating formula for setting FBT

Section 90B incorporates the formula for setting the FBT prescribed rate.

The rate of interest is required to be set at the Reserve Bank of New Zealand's floating first mortgage new customer housing interest rate.

Revocation of regulations

The Income Tax (Fringe Benefit Tax, Interest on Loans) Regulations 1995 have been revoked.

Transitional provision

Section RZ 17 of the ITA is a transitional provision that covers the period between 31 March 2026 (the date the Act came into force) and the Commissioner setting new rates by determination. It ensures that in that period the FBT prescribed rate will continue to be that previously set under the 1995 Regulations.

DRR

Commissioner's determination powers

Section 91AAP of the TAA requires the Commissioner to determine the deemed rate of return for each income year.

Legislatively incorporating formula for setting DRR

Section 91AAP incorporates the formula for setting the DRR.

The rate is required to be set at the five-year government stock rate for the income year plus 400 basis points. The five-year government stock rate is calculated as the average of the rates on 30 June, 30 September, 31 December, and 31 March in the income year. If a rate is not available on one of those dates, the rate on the first day a rate is available after that date is to be used in the calculation for that date.

Integration with existing formulae

The new DRR applies to both the standard formula and part-year formula in section EX 55 of the ITA.

The definition of "deemed rate" in section EX 55(4)(b) and (6)(c) of the ITA has been amended to refer to the Commissioner's determination made under section 91AAP of the TAA.

Publication and presentation requirements for Commissioner's determinations

The Legislation Act 2019 requires that the Commissioner's determinations must be:

- published on Inland Revenue's website and notified in the *Gazette*, and
- presented by the Minister of Revenue to the House of Representatives.

Overseas donee status

Schedule 32 of the Income Tax Act 2007
Sections 2(40) and 119(3) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023

Summary of amendments

Amendments have been made to schedule 32 of the Income Tax Act 2007 that:

- add three charities to the list of donee organisations in schedule 32 of the Income Tax Act 2007
- remove 12 charities that have ceased operating from schedule 32,
- update the references to six charities, and
- support the restructure of two other existing charities on the list.

An amendment has also been made to the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 to remove a sunset clause that applied to a charity.

Effective date

The amendments to schedule 32 take effect on the following dates:

Amendment	Effective date
Rename "International Christian Aid (ICA)" to "International Christian Aid Relief Enterprises".	1 April 2008
Rename "The New Zealand Society for the Intellectually Handicapped (Incorporated)" to "IHC New Zealand Incorporated".	1 April 2008
Rename "Hope Foundation Development" to "Building for Education".	21 June 2010
Rename "Hope International Charitable Trust" to "HOPENZ Charitable Trust".	13 August 2013
Rename "Te Tūao Tāwāhi: Volunteer Service Abroad Incorporated" to "Volunteer Service Abroad: Te Tūao Tāwāhi Incorporated".	18 April 2017
Rename "New Zealand for UNHCR (United Nations High Commissioner for Refugees) to "Aotearoa New Zealand for UNHCR"	7 December 2022
Add "Engineers Without Borders New Zealand"	5 March 2025
Add:	1 April 2025

▪ "Days for Girls NZ" ▪ "EduTech Nepal Foundation" ▪ "Revive Afghanistan NZ" ▪ "UN Women Aotearoa New Zealand"	
Rename "Revive Afghanistan NZ" to "Revive All NZ".	16 July 2025
Rename "EduTech Nepal Foundation" to "EduTech Foundation".	30 July 2025
Remove: ▪ "Four Sherpa Trust" ▪ "Fund for Timor" ▪ "Greater Mekong Subregion Tertiary Education Consortium Trust" ▪ "New Zealand Disaster Assistance Response Team Trust" ▪ "NPH New Zealand Charitable Trust" ▪ "NZ-Iraqi Relief Charitable Trust" ▪ "Register of Engineers for Disaster Relief New Zealand" ▪ "Sir Ray Avery Foundation" ▪ "Solomon Outreach Society" ▪ "Tender Trust" ▪ "Toraja Rural Development Charitable Trust" ▪ "Valehead Community Health Centre Trust".	31 March 2026
Removal of sunset clause that applied to Heilala Vanilla Foundation.	31 March 2026
Remove old entity name "Engineers Without Borders New Zealand Incorporated".	1 April 2026
Remove old entity name "UN Women Aotearoa New Zealand Incorporated".	1 April 2026

Background

Donors to organisations listed in schedule 32 are entitled as individual taxpayers to a tax credit of 33.33% of the monetary amount donated, up to the amount of their taxable income. Companies and Māori authorities may claim a deduction for donations up to the level of their net income. Charities that apply funds towards purposes that are mostly outside New Zealand must be listed in schedule 32 before donors become eligible for these tax benefits.

Detailed analysis

Additions to schedule 32

Three charitable organisations have been added to schedule 32. Donors to these charities will be eligible for tax benefits on their donations.

Days for Girls NZ

Days for Girls NZ provides reuseable feminine hygiene products to women in impoverished nations. Days for Girls NZ is a chapter of Days for Girls International. The Trust currently provides products to Pacific Island countries exclusively. All countries the Trust sends products to are developing countries. The Trust has been active since 2012 and has established connections with organisations in the Pacific Islands.

EduTech Foundation

EduTech Foundation builds and resources modern computer labs in Nepal with the purpose and intent of raising educational outcomes in poor communities using the latest version of teaching materials and learning tools.

Revive All NZ

Revive All NZ works in Afghanistan and New Zealand. Its overseas activities include working with Afghan charitable organisations for the betterment of the Afghan people and to help the community. This aid is delivered through partnerships with charities that distribute emergency aid, water relief infrastructure, and create micro-businesses to improve the economy.

GST remedials

Supplier groups clarification

Section 55B(1) and (2)(a) of the Goods and Services Tax Act 1985

Summary of amendments

The amendments clarify that an issuing member of a supplier group is only responsible for issuing taxable supply information and supply correction information on behalf of the other members for taxable supplies that are covered by an agreement between the members, consistent with the policy intention.

All legislative references are to the Goods and Services Tax Act 1985 (GST Act).

Effective date

The amendments apply for taxable periods starting on or after 1 April 2023.

Background

As part of changes made in 2022 to modernise GST information requirements, the rules for "shared tax invoices", which allowed a registered person to issue a single tax invoice on behalf of multiple suppliers in certain circumstances, were replaced with the rules applying to "supplier groups".

A supplier group is typically a group of unrelated registered persons without common ownership or control. Under the supplier group rules, the "issuing member" of the group is responsible for issuing taxable supply information (formerly known as a tax invoice) for any member of the group when that other member makes a taxable supply.

The intention behind the supplier group rules was to allow groups of suppliers making taxable supplies to a common recipient to use shared invoices in a wider range of circumstances than was allowed under the former rules for shared tax invoices.[22] For example, an electricity retailer (Retailer Co) and a lines company may form a supplier group so that invoices provided by Retailer Co (the issuing member) to its customers, which include the supply made by the lines company (being the lines charge included on electricity bills), comply with the GST Act requirements for taxable supply information.

The issue with the supplier group rules as originally enacted was that the scope of supplies covered by those rules (for which the issuing member was required to provide taxable supply information and supply correction information) may have been unintentionally broad. On a literal reading of

[22] The rules for shared tax invoices in former section 24BA only allowed the use of a shared tax invoice if the suppliers used a single invoice because they had statutory obligations that made it practical to use a single invoice, or because they were all members of the same GST group.

the rules, it appeared the issuing member of a supplier group was responsible for providing taxable supply information for every supply by a member of the supplier group other than a supply made under section 5(2).

In the above example of Retailer Co and the lines company, this arguably meant Retailer Co (as the issuing member) was technically required to provide taxable supply information for every single supply made by the lines company, potentially including supplies made by the lines company to persons who were not customers of Retailer Co but were instead customers of a different electricity retailer unrelated to Retailer Co.

Detailed analysis

Amendments have been made to section 55B to clarify that members of a supplier group may enter an agreement under which the issuing member issues the taxable supply information and supply correction information for agreed taxable supplies of goods and services made by a member of the supplier group (the supplying member). Consistent with the old rules for shared tax invoices, this does not apply to supplies made under section 5(2) (meaning the issuing member must not provide taxable supply information and supply correction information for a supply made under section 5(2) by another member of the supplier group).

Provided that the existing requirements for a supplier group listed in paragraphs (b), (c) and (d) of section 55B(2) are satisfied, the requirements for a supplier group are met if the members also agree that:

- the issuing member must issue taxable supply information and supply correction information for agreed taxable supplies by a supplying member, and
- each member, other than the issuing member, must not issue taxable supply information and supply correction information for a supply when the members have agreed that the information will be provided by the issuing member.

Example 72: Electricity retailer and lines company form supplier group

Retailer Co, an electricity retailer, and Lines Co, an electricity lines company, are both registered for GST. For billing purposes, Retailer Co and Lines Co would prefer to use a single invoice that includes both their taxable supplies to Retailer Co's customers because this is more practical than issuing separate invoices.

Retailer Co and Lines Co agree to form a supplier group so that the shared invoices provided by Retailer Co (being the issuing member of the group) to its customers will satisfy the GST Act requirements for taxable supply information. Retailer Co and Lines Co agree that Retailer Co, not Lines Co, will issue taxable supply information and supply correction information for certain taxable supplies made by Lines Co to Retailer Co's customers, being the lines charge included in the shared invoices issued by Retailer Co.

Secondhand goods clarification

Section 21B(1)(b) and (5) of the Goods and Services Tax Act 1985

Summary of amendment

The amendment clarifies that, for the purposes of determining the amount of input tax under section 3A of the Goods and Services Tax Act 1985 (GST Act) for a supply of secondhand goods, the person will be treated as if they had been a registered person at the time the goods were acquired.

All legislative references are to the GST Act.

Effective date

The amendment takes effect on 31 March 2026.

Background

The GST Act allows registered persons who acquire secondhand goods from unregistered persons to claim back the GST (as an input tax deduction) that has been embedded in the cost of those goods. The GST adjustment rules in section 21B also allows input tax deductions in situations when a person registers for GST after acquiring the goods, so long as the goods are now used to make the registered person's taxable supplies.

The definition of input tax in respect of secondhand goods in section 3A(2) refers to goods "sold to a registered person". It was unclear if this requirement was met if the person registered for GST after they acquired the goods. The specific adjustment rule in section 21B for making adjustments for goods acquired prior to registering for GST refers to secondhand goods and the policy intent and accepted practice is that this adjustment rule can be applied to secondhand goods.

Secondhand goods interaction with adjustment rule

Section 205(3) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025

Summary of amendment

The application date for some recent amendments to the input tax rules for secondhand goods acquired from associated persons has changed to "taxable periods starting on or after 30 March 2022".

Effective date

The amendment takes effect on 30 March 2022.

Background

Section 3A(3)(a) of the Goods and Services Tax Act 1985 (GST Act) limits secondhand goods deductions for registered persons who acquire goods (typically land) from an associated unregistered person. Amendments were made to sections 3A(3)(a)(i) and (3BB) to allow the correct GST deduction when the associated unregistered person had purchased the land from another unregistered person.

The application date for these amendments in section 205(3) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 originally referred to "goods acquired by a person on and after 30 March 2022".

An unintended consequence of that application date occurred in some cases when a person acquired secondhand goods prior to 30 March 2022 from an associated unregistered person. If the person began using the goods to make taxable supplies after 30 March 2022, they could have been unable to claim a deduction under the GST adjustment rules.

Key features

The amendment changes the application date in section 205(3) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 to "taxable periods starting on or after 30 March 2022".

This allows persons who make an adjustment for secondhand goods to use the current input tax definition for adjustments that are made for a taxable period that began on or after 30 March 2022, even if the secondhand goods were originally acquired earlier. This could include situations when the registered person acquired and used the secondhand goods to make taxable supplies prior to

30 March 2022 but is making an adjustment for taxable use that occurred in a period beginning on or after 30 March 2022.

Effective date for change from filing frequency selected in error

Section 15D(2BA) and (3) of the Goods and Services Tax Act 1985

Summary of amendment

An amendment to the Goods and Services Tax Act 1985 (GST Act) provides that a change in a newly registered person's filing frequency takes effect on the start date of their registration provided they apply for the change within a specified timeframe.

All legislative references are to the GST Act.

Effective date

The amendment takes effect on 31 March 2026.

Background

Sometimes, when businesses and organisations register for GST using the online registration process, they may accidentally select a filing frequency that they did not intend (for example, monthly instead of two-monthly). Previously, when this occurred, the GST legislation did not permit the Commissioner of Inland Revenue (the Commissioner) to backdate a change in the person's filing frequency to the start date of their registration so that the change was effective for their very first taxable period. This was because there was no specific rule for when a registered person applied to change their GST filing frequency during their very first taxable period. Instead, the default timing rules for changes in taxable periods applied.

Under those default timing rules, a change in the basis on which a registered person's taxable period is set (that is, their GST filing frequency) takes effect at the end of the taxable period in which the person applies or is required to change the basis on which their taxable period is set. This means that the change in the scenario described above only ever used to take effect for the person's next taxable period and subsequent taxable periods, rather than for the person's taxable period at the time they applied for the change.

Detailed analysis

New section 15D(2BA) provides that a change in filing frequency for a registered person takes effect on the start date of their registration if they apply to the Commissioner for the change:

- within 35 days after the end of the month in which the person registered for GST, or
- if the person registered for GST in November, on or before the following 20 January.

This deadline for making the application is intended to provide newly registered persons with sufficient time to apply for the change, while at the same time ensuring they make the application in a sufficiently timely manner so that they do not miss filing deadlines that could have been met if reasonable efforts were made.

The examples below illustrate how new section 15D(2BA) applies.

Example 73: Change from two-monthly filing on even months to filing on odd months

Bill, a sole trader, registers for GST on 1 January 2027. At the time of registering, Bill accidentally (and without realising his mistake) selected two-monthly filing on even months when he meant to file GST returns two-monthly on odd months.

Bill is alerted to his error in February 2027 when he receives a reminder from Inland Revenue to file his GST return due on 28 February. If Bill wants to change to filing on odd months and have that change apply from the start date of his registration (meaning that his very first taxable period will be the period covering January and February 2027, rather than just January 2027), he must apply to the Commissioner for the change before 7 March 2027 (being 35 days after the last day of the calendar month in which he registered for GST, that is, 35 days after 31 January 2027).

Example 74: Change from two-monthly filing on odd months to filing monthly

Jess registers for GST during March 2027. At the time of registering, Jess accidentally selected a two-month taxable period filing on odd months when she meant to file GST returns monthly.

If Jess wants to change to filing monthly and have that change apply from the start date of her registration (meaning that her very first taxable period will be the March 2027 period), she must apply to the Commissioner for the change before 5 May 2027.

Business-to-business zero-rating of financial services election process

Section 20F of the Goods and Services Tax Act 1985

Summary of amendment

The election to zero-rate qualifying financial services in section 20F of the Goods and Services Tax Act 1985 can be exercised by the supplier either taking the relevant position in a GST return, or by notifying the Commissioner of Inland Revenue before the end of the taxable period in which they first choose to use the election.

Effective date

The amendment takes effect on 1 April 2025.

Background

GST registered suppliers can elect under section 20F to zero-rate qualifying financial services they provide to other GST registered businesses. This election allows them to claim GST deductions for the inputs used to make these supplies.

Since 31 March 2026, the election can be made by taking a tax position in the supplier's GST return. However, there can be some circumstances when it would be easier to elect by notifying the Commissioner. For example, a new business may acquire inputs that it will use to begin supplying financial services in a future period and wishes to use the election to register for GST now to ensure it can claim deductions for the inputs in a later GST return (once it has more information about the value of its qualifying zero-rated financial services compared to its exempt supplies). The amendment allows the supplier to notify the Commissioner to make the election.

Clarify rules for certain goods sold as non-taxable supplies

Sections 2(1), 5(16)(a)(i), 6(3)(e)(i), and 91(4) of the Goods and Services Tax Act 1985

Summary of amendments

Some references to deductions in sections 5(16), 6(3) and 91 of the Goods and Services Tax Act 1985 (GST Act) have been amended to clarify that they exclude subsequent non-integral deductions.

Non-integral deductions are defined in section 2 of the GST Act as deductions for other goods and services that did not make a substantial improvement to the main goods and did not make an integral part of the main goods. Integral part means the main goods would be considered incomplete or unable to function without the goods or services.

Effective date

The amendment to section 6(3)(e) applies to supplies made on or after 1 April 2011. However, there should be a savings provision for supplies for which an assessment has been made prior to 30 August 2022. This is the same application date as when section 6(3)(e) was originally inserted.

The amendment to section 91(4) takes effect on 1 April 2023, the date section 91(4) was first inserted.

The amendment to section 5(16) takes effect on 1 April 2023, the date the current section 5(16) was originally inserted.

Background

Special rules in the GST Act deem a supply of goods, such as a house, to be not subject to GST when sold, so long as the registered person has not treated the house as being part of their taxable (business) activity. One of the qualifying requirements is the person cannot have previously claimed an input tax deduction for the goods.

The policy intention of these rules is that the relevant input tax deductions should be for the goods themselves, or for subsequent expenditure on other goods and services that made a substantial improvement to the goods and became an integral part of the goods. This policy intention was outlined in the policy guidance materials and examples prepared at the time these rules were introduced. The legislation has been amended to define non-integral deductions and clarify that non-integral deductions are excluded when considering the relevant input tax deductions.

Requirement for principal purpose of asset

Section 91(4) of the Goods and Services Tax Act 1985

Summary of amendment

Section 91(4) of the Goods and Services Tax Act 1985 (GST Act) has been amended so that a person must have not used the goods for a principal purpose of making taxable supplies. This makes it consistent with the requirement in section 91(1)(d) and with the similar rule in section 6(3)(e)(iii) of the GST Act.

Effective date

The amendment takes effect on 31 March 2026.

Background

Section 91 provides an election whereby registered persons could pay back the input tax deductions they had previously claimed on certain goods (typically land) before 1 April 2025 so that those goods could become non-taxable supplies if they were later sold (or otherwise disposed of). The requirements to make this election include not claiming input tax deductions for the goods and to have not acquired or used the goods for a principal purpose of making taxable supplies before the date of the election.

Section 91(4) applies after making the election and previously only required the person to have not claimed an input tax deduction under section 20(3) of the GST Act. It now also requires the person to have not ever used the goods for a principal purpose of making taxable supplies.

Record-keeping requirements for supplies to unregistered persons

Sections 19E(2)(a)(ii) and 19K(8B) of the Goods and Services Tax Act 1985

Summary of amendment

The amendment clarifies that suppliers are not required to retain "recipient details" for unregistered purchasers when the value of the supply exceeds $1,000.

Effective date

The amendment takes effect on 31 March 2026.

Background

A GST registered person that makes or receives a supply of goods or services must keep a record of taxable supply information (formally known as a tax invoice) for that supply under section 19F(1) of the Goods and Services Tax Act 1985 (GST Act). For supplies over $1,000, taxable supply information is defined in section 19E(2)(a) to include "recipient details" for the recipient. "Recipient details" is defined in the GST Act and includes identifying information of the recipient (the name of the recipient and one or more items of information such as address, telephone number, or email address).

The policy rationale behind this requirement is that it supports the integrity of the GST system by ensuring that GST input tax deductions claimed on high-value items can be cross-referenced against a legitimate transaction. However, this is only necessary if the recipient of the supply is also GST registered because an unregistered purchaser is unable to claim GST.

Detailed analysis

The amendment to section 19E(2)(a)(ii) provides that taxable supply information for a supply that exceeds $1,000 only includes recipient details for the recipient if the recipient is a registered person.

This ensures that if a supply that exceeds $1,000 is made to an unregistered purchaser, there are no requirement for the seller to obtain additional personal identifying information from the purchaser (recipient details).

Example 75: Laura the supermarket shopper

Laura lives on a farm in a remote area of the Waikato and makes the three-hour round trip to her local supermarket once a month to stock up on food for her family. This shop often exceeds $1,000.

Prior to the amendment, the supermarket was obliged to hold recipient details for Laura, such as her name and address, on the basis that the supply exceeds $1,000.

Laura is not registered for GST so following the amendment, there is no requirement for the supermarket to hold recipient details for Laura.

Customs concessions

Section 12(4)(e) of the Goods and Services Tax Act 1985

Summary of amendment

The amendment introduces a GST-free concession for inherited goods and repeals a redundant concession.

Effective date

The amendment takes effect on 1 April 2026.

Background

The New Zealand Customs Service collects GST, as well as other duties and cost recovery charges, on imports with a value over $1,000. Cabinet has agreed to implement a new concession to be used for duty-free entry of inherited goods, and to remove a redundant concession.

Detailed analysis

The amendment to section 12(4)(e) of the Goods and Services Tax Act 1985 aligns GST exemptions with updated tariff concessions by ensuring that inherited goods are able to enter New Zealand GST-free. This is achieved by inserting a reference to concession 71.

A reference to concession 75 is removed from section 12(4)(e). This concession provides limited duty-free entry on gifts up to $110 but is redundant because the low-value goods regime offers more comprehensive duty relief for gifts up to $1,000.

GST and bad debt deductions made by specified agents

Section 58(1C) of the Goods and Services Tax Act 1985

Summary of amendment

The technical amendment ensures that bad debt deductions claimed by liquidators, receivers, and other "specified agents" that are related to supplies made before the specified agent was appointed, can be set off against tax debts (payable under the Inland Revenue Acts) that existed before the specified agent's appointment. The amendment ensures the rules are consistent with the long-standing policy intent.

Effective date

The amendment takes effect on 10 October 2000 to align with the introduction of the original set-off rules for specified agents.

Background

Specified agents (such as liquidators and receivers appointed under section 58 of the Goods and Services Tax Act 1985) can deduct input tax related to supplies made before their appointment if the deductions have not already been claimed. This includes deductions for bad debts.

The policy intention is to allow bad debt deductions claimed by specified agents, related to supplies made before their appointment, to be set off against tax debt payable (under the Inland Revenue Acts) that existed before the specified agent was appointed.

The amendment aligns the law with the policy intent.

Example 76: Bad debt deduction claimed by specified agent in practice

A business sells $115 of goods to a buyer. The business accounts for GST of $15 on the sale by including the sale in its GST return. The business never receives payment from the buyer and, shortly after, the business goes into liquidation.

On appointment, the liquidator enquires into the debt and concludes it is unlikely it will be paid. Consequently, the liquidator writes the $115 debt off as bad. The liquidator then claims a GST deduction for the bad debt of $15.

The amendment ensures that the $15 deduction is set off against tax debt payable by the business prior to the liquidator being appointed.

Investment Boost remedials

Low-value asset threshold

Section EE 38(1B) of the Income Tax Act 2007

Summary of amendment

The amendment restores the $1,000 threshold under which taxpayers are able to deduct the full cost of a low-value asset, rather than depreciate it over time. This threshold had inadvertently been raised to $1,250 for assets eligible for a new investment asset deduction (Investment Boost).

Effective date

The amendment takes effect on 22 May 2025 (the date the Investment Boost policy came into effect and the threshold was inadvertently raised).

Background

The Investment Boost policy allows a 20% deduction for the cost of new investment assets. To tie the new investment asset deduction into the existing depreciation regime, the legislation included a rule reducing the "cost" of the asset by the amount of the new investment asset deduction. This rule is working as intended for most of the depreciation regime.

As part of the depreciation regime, taxpayers are allowed to deduct the full cost of an item that would otherwise be depreciable property if that item's cost is equal to or less than $1,000. By lowering the "cost" of assets that have taken a new investment asset deduction, new investment assets with a total cost of up to $1,250 are now immediately fully deductible.

The amendment reverts this change and ensures that the low-value asset threshold uses the asset's original cost and not the asset's cost after the new investment asset deduction.

Example 77: Low-value asset deduction for new investment asset

Kita and Ky's Kite-Flyers buy a new work phone to help them organise their performances and events. The phone costs them $1,250. They take a new investment asset deduction of $250, 20% of the original $1,250 cost. The phone now has a cost of $1,000 for the purpose of determining depreciation deductions. Kita and Ky's Kite-Flyers must depreciate the asset from $1,000. They cannot deduct the full cost of the asset.

Asset transfers in certain circumstances

Section DI 3 of the Income Tax Act 2007

Summary of amendment

The amendment limits the provision dealing with the transfer of new investment assets to ensure it only applies when the person receiving the new investment asset is deemed to have claimed the transferor's depreciation loss under other provisions of the Income Tax Act 2007 (ITA).

The amendment ensures that the transferee only inherits the new investment asset deduction in cases when depreciation loss is transferred, that is, when the transferee is deemed to be taking over the asset as if they were the original owner.

Effective date

The amendment takes effect on 22 May 2025 (the date subpart DI of the ITA came into effect).

Background

In the context of depreciable property, subpart DI of the ITA allows a new investment asset deduction of 20% in the year of acquisition, reducing the cost by an equivalent amount with the remainder of the value being available for deduction in the form of annual depreciation deductions.

When the asset is disposed of above its tax book value, the deduction may be recovered (in whole or in part, up to the asset's original cost) in the form of depreciation recovery income.

In certain circumstances, assets can be transferred between taxpayers with the transferee stepping in to the shoes of the transferor. The transferee is deemed to have claimed all depreciation losses claimed by the transferor. The new investment asset deduction is effectively an acceleration of depreciation so the transferee should be deemed to have claimed any new investment asset deduction of the transferor as well.

As drafted, these rules apply more broadly than intended. Instead of being limited to the specific circumstances where the existing legislation deems the transferee to have stepped into the shoes of the transferor, the current drafting applies to all asset transfers between associates and on any amalgamation. The amendment limits the scope to the relevant specific circumstances.

Key features

The amendment clarifies that a new asset transferee only inherits the new asset investment deduction when they otherwise are treated as having taken the pre-transfer amounts of

depreciation loss under another provision of the ITA. The section has an inclusive but not necessarily exhaustive list that identifies the specific provisions that may be relevant. The list ensures that the specific provisions contemplated are easily identified. Any provisions not specifically identified that treat the transferee as having claimed the pre-transfer depreciation loss will also be captured.

Asset transfers between associates

Section EE 40(7)(b)(ii) of the Income Tax Act 2007

Summary of amendment

The amendment confirms that, when depreciable assets are sold between associated persons, the purchaser's depreciation loss is limited to the vendor's original cost and that cost is calculated before any new investment asset deduction claimed by the vendor.

Effective date

The amendment takes effect on 22 May 2025 (the date subpart DI of the Income Tax Act 2007 (ITA) came into effect).

Background

In the context of depreciable property, subpart DI allows a new investment asset deduction of 20% in the year of acquisition, reducing the cost by an equivalent amount with the remainder of the value being available for deduction in the form of annual depreciation deductions.

When the asset is disposed of above its tax book value, the deduction may be recovered (in whole or in part, up to the asset's original cost) in the form of depreciation recovery income.

When depreciable assets are disposed of between associated persons there are special provisions that operate to ensure that the depreciable cost cannot be uplifted for the purchaser. Without the provisions it would be possible for an associated person to sell a depreciable asset above original cost (and realise a capital gain) with the purchaser claiming a deduction for a depreciation loss on the uplifted amount. The ITA provides that the cost for the purchaser in these circumstances should be restricted to the vendor's cost.

Separately, section DI 6 provides that when a new investment asset deduction has been claimed, cost should be correspondingly reduced for the purposes of calculating the depreciation loss of the person who has (or is otherwise deemed to have) claimed the new investment asset deduction.

While section DI 6 should not operate to reduce the cost for the purposes of restricting the purchaser to the vendor's original cost in the context of the associated person limitation, the amendment confirms that point by stating so.

Secondhand exclusion

Sections DI 2 and YA 1 of the Income Tax Act 2007

Summary of amendment

The amendment clarifies when an asset has never previously been used or available for use in New Zealand for the purposes of the Investment Boost policy (that is, the scope of the secondhand exclusion).

Effective date

The amendment takes effect on 22 May 2025 (the date subpart DI of the ITA came into effect).

Background

An asset is eligible for a new investment asset deduction of 20% if it has never been used or available for use in New Zealand. This functions to exclude secondhand assets from eligibility, unless the asset has only been used overseas. The secondhand exclusion is intended to exclude assets previously used as depreciable property by another business in New Zealand as well as assets that have been used for private purposes or by a non-business entity in New Zealand.

Key features

The amendment clarifies when an asset is considered to have been previously used or available for use.

Secondhand mining and petroleum assets

The policy intent is that secondhand assets are not eligible for the Investment Boost deduction. Under the previous drafting, the secondhand exclusion only applied to depreciable property and did not apply to non-depreciable assets that could also be acquired secondhand, such as certain assets acquired through petroleum development expenditure or mining development expenditure.

The amendment restores the policy intent by ensuring the secondhand exclusion, restricting eligibility for the new investment asset deduction to new assets, applies to all assets including those acquired through petroleum development expenditure or mining development expenditure.

Trading stock and land

The previous definition of trading stock excluded land and therefore excluded buildings and other fixtures on the land. Buildings and other fixtures on land may still be new investment assets and are intended to be eligible for Investment Boost if they have only been held for sale and exchange in

the ordinary course of business. The definition of trading stock as it applies to Investment Boost has been amended to include land.

Held as trading stock

The policy intent is that assets that have previously only been held as trading stock will remain eligible for Investment Boost if they are later acquired as a new investment asset. The amendment clarifies that trading stock is, from a legal perspective, held rather than used. An asset is held as trading stock if the dominant purpose is to sell or exchange the asset as trading stock. A small amount of use while an asset is being held as trading stock will not necessarily result in the asset being used by that person.

Example 78: Land held as trading stock

Greg is a property developer and constructs a commercial building on a piece of land. The building takes several months to sell. The building is trading stock for Greg because it is primarily being held for sale and Greg is not treating the building as depreciable property. The building may be a new investment asset in the hands of the next owner of the building.

Use is necessary for sale

Some new investment assets may require a level of use, such as testing or trialling, before the asset can be sold. The level of use required for some assets may exceed the level usually permitted for an asset held as trading stock.

The policy intent is that those assets are still eligible for Investment Boost if the asset has not previously been used as depreciable property and is being sold to a final user. The amendment clarifies that an asset may be eligible for Investment Boost if any previous use was necessary to prepare the asset for sale to its final user.

Example 79: Trialling that is necessary for sale

Sydney operates a car dealership specialising in imported cars. She allows potential customers to take the cars out on test drives as part of her efforts to sell the cars. She frequently rotates the cars used for test drives to stop any car accumulating a high level of prior road use. Sydney does not use the cars as depreciable property. The cars may be new investment assets in the hands of the next owner.

Example 80: Testing that is necessary for sale

Elmo's Engineering Ltd designs and builds custom trailers. As part of ensuring the trailer is roadworthy, Elmo's Engineering Ltd uses the trailer to deliver a welding machine to another site. The use was part of ensuring the trailer was ready for sale and any income derived for Elmo's Engineering Ltd was merely incidental. The trailer may be a new investment asset in the hands of the person for whom the trailer was built.

Example 81: Using asset to derive income

Sydney (from Example 79 uses one of her vehicles for six months to travel between different car yards and run errands for the business. The car is no longer eligible for Investment Boost because it has been used in a way that is more than necessary to prepare the asset for sale.

Example 82: Using asset for private purposes

One of Sydney's cars is sold to Bill who uses the car for private purposes for several months before returning the car to Sydney. The car is no longer eligible for Investment Boost because it has been used by someone in New Zealand for private purposes.

Improvements to existing assets

Sections DI 1(2)(cb), DI 4(a)(viii), and DI 4B of the Income Tax Act 2007)

Summary of amendments

The amendment clarifies that all improvements to existing assets are eligible for Investment Boost (provided all other criteria are met).

Effective date

The changes take effect on 22 May 2025 (the date Investment Boost came into effect).

Background

It was always intended that improvements to existing assets should be eligible for Investment Boost. However, before the amendment, improvements to non-depreciable assets may often not have constituted a new asset in its own right and therefore not be eligible for Investment Boost.

Key features

The amendment clarifies that improvements to existing assets can qualify for Investment Boost even if the improvement does not give rise to a new asset in its own right. Provided all other criteria are met, this ensures Investment Boost is available for all:

- depreciable property and improvements to depreciable property
- primary sector land improvements that are allowed deductions in sections DO 4, DO 5, DO 12 and DP 3 of the Income Tax Act 2007 respectively and improvements to these improvements, and
- petroleum development expenditure and mining development expenditure.

Clawback of Investment Boost deduction following change of use

Sections CC 15 and DI 6(1) and (2) of the Income Tax Act 2007

Summary of amendment

The amendment extends the clawback of an Investment Boost deduction following a change of use to also apply when the proportion of a commercial building used for dwellings increases by 25% or more.

Effective date

The changes take effect on 22 May 2025 (the date Investment Boost came into effect).

Background

If the private use of an asset increases by 25% or more, the Investment Boost deduction previously claimed is clawed back to reflect the new private use. However, if a commercial building is reconfigured as a residential building but still used entirely for deriving income (for example, providing rental accommodation), there is no clawback of the Investment Boost deduction. This creates an integrity risk because some types of commercial buildings (for example, serviced apartments) can be easily converted to dwellings.

Key features

The amendment ensures the clawback provision applies if there was a change of use of an asset that reduces the amount of an Investment Boost deduction claimable by 25% or more. This change of use can either be an increase in private use of an asset or converting an asset into an asset type not eligible for Investment Boost (for example, a residential building).

FBT remedials

Replace FBT threshold reference

Section RD 50(6)(b)(ii) of the Income Tax Act 2007

Summary of amendment

The amendment replaces a reference to a previous fringe benefit tax (FBT) threshold with the new threshold to ensure the consistency of legislation and prevent affected taxpayers having to apply two different FBT thresholds in an income year.

Effective date

The amendment takes effect on 1 April 2025 and applies for the 2025–26 and later income years.

Background

Following changes to the personal income tax (PIT) thresholds in 2024, consequential changes were made to FBT thresholds. This is because FBT thresholds are calculated using the PIT thresholds.

Changes to the FBT thresholds came into effect 1 April 2025, and most references to the previous thresholds were replaced with corresponding new thresholds simultaneously.

However, one reference to a previous threshold remained in the Income Tax Act 2007.

Gift cards

Sections CE 1(2B), CX 2(1)(b)(i), CX 16B, CX 37(a), RD 38B, RD 45, RD 47(1)(d), RD 49(2), and YA 1 of the Income Tax Act 2007

Summary of amendment

The amendment allows employers to treat gift cards (sometimes referred to as "open loop cards") provided to employees as subject to fringe benefit tax (FBT) rather than PAYE.

Effective date

The amendment takes effect for benefits provided on or after 16 April 2025.

Background

The Commissioner of Inland Revenue recently released a question we've been asked relating to gift cards. The Commissioner concluded that an open loop card (which is a gift card that can be redeemed at most retailers) is "money" because it can be spent widely in the same way that e-money can. This means that it is a PAYE income payment.

However, paying tax on an open loop card through the PAYE regime is compliance-heavy and not necessarily appropriate given the origin of the "money". If the voucher was a closed loop card instead (being a retailer specific card), FBT would apply.

In addition, employers have generally been applying FBT to the provision of these types of cards. Applying FBT to open loop cards may be a preferable approach and the amendment allows employers the option to treat those cards as FBT.

Example 83: Gift cards (open loop stored value cards)

No Doubt Developers Limited (NDD) purchases gift cards to give to employees when they do something above and beyond their duties. Gwen recently provided some assistance to a neighbour of one of NDD's developments when she had a fall. NDD gives Gwen a $50 gift card to spend on anything she likes.

Under previous law that gift card needed to be included in Gwen's wages and have the appropriate PAYE paid on it.

Under the amendment, NDD can include the provision of that card as a benefit, and it will be subject to FBT (unless one of the exemptions apply).

Accounting for investment boost on motor vehicles

Schedule 5 of the Income Tax Act 2007

Summary of amendment

The amendment alters the calculation of the value of a motor vehicle for fringe benefit tax (FBT) purposes when the employer has claimed an Investment Boost deduction and uses the tax book value option.

Effective date

The amendment takes effect for benefits provided in quarters on or after 1 April 2026.

Background

The recently introduced Investment Boost provides for an immediate 20% deduction from the purchase of new assets.

Investment Boost should not alter the value of a motor vehicle provided to employees that is subject to FBT because FBT captures the private benefit of having a motor vehicle available.

Key features

This amendment only affects taxpayers who have claimed Investment Boost and who use the tax book value method to calculate the fringe benefit in relation to that motor vehicle.

For those taxpayers, the value of the benefit will be calculated based on the adjusted tax value of the vehicle but using a different percentage value that effectively ignores the Investment Boost deduction. If no Investment Boost has been claimed on the vehicle, the old percentage will still apply.

This change ensures that the FBT value for the first five years is roughly equivalent, and the Investment Boost deduction is ignored when using the tax book value for FBT purposes.

Equalisation of FBT and PAYE

Sections CE 1(3C), CE 1BA, CW 17(5), and CE 17BA of the Income Tax Act 2007

Summary of amendment

The amendment ensures that if an employer accounts for either fringe benefit tax (FBT) or PAYE on a benefit, they are not liable for the other.

Effective date

The amendment takes effect for benefits provided on or after 1 April 2026.

Background

One of the areas of most confusion to taxpayers is which regime may apply to specific expenditure. For example, when an employer provides an employee with a meal there are potentially three different treatments:

- If the meal is provided by the employer at a certain time and place, it will generally be subject to the entertainment deduction limitation.
- If the meal is provided in the form of a voucher that the employee can use whenever they want, it will generally be subject to FBT.
- If the employee goes out for dinner and the employer reimburses the cost of the dinner to the employee, this will generally be remuneration and subject to PAYE.

Each of these treatments will have slightly different tax outcomes but are essentially trying to tax the same thing.

A change made in the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 equalised the treatment of the provision of a benefit in respect of benefits provided (or reimbursed) to employees under the health and safety exemption from FBT.

The amendment provides that when a fringe benefit was accounted for in respect of benefits provided to employees (other than accommodation), there will be no PAYE liability. In addition, when an employer chose to provide a non-cash benefit to an employee by way of reimbursing that employee for the cost of the benefit, that should also be treated as a fringe benefit and subject to FBT (this approach will not apply to motor vehicles).

Example 84: FBT treatment of reimbursements

Spiderwebs Comix Limited is a comic shop specialising in everything spider related. Unfortunately, a water pipe in the business that occupies the second floor of the building bursts and Spiderwebs' premises is flooded. Stefani is one of Spiderwebs employees and worked through the weekend on her own time to salvage the stock from Spiderwebs. Adrian, the owner of Spiderwebs tells Stefani to take her partner out for a nice dinner up to $400 to thank her for helping out. Stefani takes her partner out to Dumont restaurant (one of the best in the area) and the bill is $380.00, which she pays herself. Adrian reimburses Stefani for the amount.

Spiderwebs treats this amount as a fringe benefit and accounts for FBT on the amount as an unclassified benefit. Technically this amount should be subject to PAYE, however, because Spiderwebs has paid FBT on the amount there will be no PAYE obligation

Global insurance policies

Sections RD 49(3B) and RD 53 of the Income Tax Act 2007

Summary of amendment

The amendment provides options for accounting for fringe benefit tax (FBT) on global insurance policies.

Effective date

The amendment takes effect for benefits provided on or after 1 April 2026.

Background

In a number of cases, employers provide certain types of insurance schemes based on global policies with one premium rate, no matter how many employees are covered by the policy.

Global insurance policies are those policies that apply to all employees of an organisation under one policy and there is no ringfencing of certain employee groups who have differing entitlements under the policy. For example, a company may have a global insurance policy that provides all employees with cover for funeral expenses up to $5,000 on the death of an employee. The benefit derived does not differ between employees.

An issue arises as to how this global cost should be apportioned across employees for FBT purposes. The issues paper "FBT – Options for change" suggested two options for the treatment of such a global policy:

- divide the total contribution by the number of employees, or
- treat the payment of the global policy as a pooled benefit and pay FBT based on the applicable pooling rate.

Submissions on which option should be proceeded with were split with a number suggesting both options be offered in legislation.

Key features

The amendment allows employers to elect to treat global insurance policies under one of two options:

- divide the total contribution by the number of employees, or
- treat the payment of the global policy as a pooled benefit and pay FBT based on the applicable pooling rate.

Election is made by filing the employer's FBT return on the respective basis.

Unclassified benefits provided to employees of associates

Section RD 45(2)(b), (3)(b), (4)(c) and (d), and (5)(b) of the Income Tax Act 2007

Summary of amendment

The amendment clarifies the wording in section RD 45 of the Income Tax Act 2007 (ITA) to ensure that unclassified fringe benefits provided to employees of associates are correctly accounted for in the calculation of de minimis thresholds for unclassified benefits.

Effective date

The amendment takes effect on 1 April 2022 (the original date the provision was amended), with a savings provision for those taxpayers who have filed returns on the literal wording.

Background

Section RD 45 has value of benefit thresholds that limit an employer's liability for fringe benefit tax (FBT) on unclassified benefits provided to an employee. An employer is only liable when the value of unclassified benefits provided to the employee by the employer (or an associate of an employer) exceeds a certain amount or when the value of four categories of benefits provided to all employees exceeds a certain amount. The four categories are:

- unclassified benefits provided by the employer to their employees
- unclassified benefits provided by persons associated, at any time in the relevant period, with the employer to employees of the employer
- unclassified benefits provided by the employer to employees of persons associated, at any time in the relevant period, with the employer, and
- if the employer is a company, unclassified benefits provided by other companies that are part of the same group of companies as the employer, at any time in the relevant period, to employees of those other companies.

However, under a strict reading of section RD 45 the thresholds only apply to "unclassified benefits" as defined in section CX 37 of the ITA. This means they must be benefits provided to the employees of the employer either by the employer or someone who has arrangements with the employer to provide the benefit. However, benefits referred to in categories (c) and (d) above may not be "fringe benefits" under section CX 2 of the ITA because they are not provided to employees of the employer.

FBT and personal protective clothing

Section CX 24(c) of the Income Tax Act 2007

Summary of amendment

The amendment ensures that fringe benefit tax (FBT) does not apply to protective clothing provided to employees to minimise risks to the employees' health and safety.

Effective date

The amendment takes effect for benefits provided on or after 1 April 2008 to ensure employers who have treated these items as exempt from FBT are protected.

Background

Recently, Inland Revenue concluded that the existing exemption from FBT for items provided to employees to minimise risks relating to health and safety did not cover items of protective clothing. This was clearly not intended.

Other remedials

KiwiSaver remedials

Schedule 28, clause 7 of the Income Tax Act 2007
Section 22(1) of the Taxation (Budget Measures) Act 2025

Summary of amendments

The amendments ensure that the scheduled increases to employee contribution rates and the ability to take a rate reduction enacted as part of Budget 2025 also apply to members of complying superannuation funds (CSF). The amendments also allow employers to contribute to employees' CSF accounts at the reduced rate when the employees choose to take a rate reduction.

Effective date

The amendments take effect on:

- 31 March 2026 – extending the ability for the employers of a CSF members to match the rate reductions for employer contributions.
- 1 April 2026 – increasing the rate of employee contributions from 3% to 3.5% and providing for the rate reduction.
- 1 April 2028 – increasing the rate of employee contributions from 3.5% to 4%.

Background

Application of Budget 2025 rate increases to employee contributions to complying superannuation funds

The Taxation (Budget Measures) Act 2025 introduced changes to KiwiSaver settings, including increasing employer and employee contribution rates to 3.5% from 1 April 2026, followed by a further increase to 4% from 1 April 2028.

These amendments to employee contribution rates did not extend to complying superannuation funds (CSF). These funds are registered superannuation schemes whose membership rules broadly align with the KiwiSaver rules.

The requirements for CSF are contained within schedule 28 of the Income Tax Act 2007 and require the deduction of employee contributions at the rate of 3% of an employee's gross salary or wages.

Amendments have been made to schedule 28 to ensure that the scheduled rate increases enacted as part of Budget 2025 also apply to CSF members.

Extension of temporary rate reduction to complying superannuation funds

Budget 2025 also provided KiwiSaver members with the ability to take a temporary rate reduction and continue contributing to their KiwiSaver accounts at a rate of 3% of their income. This recognises that some members may not be able to immediately increase their KiwiSaver contributions or may wish to save in other ways outside of KiwiSaver.

The amendments made to schedule 28 ensure that a rate reduction facility is also available to CSF members.

Allowing employer contributions to match reduced employee contributions

Amendments to the Taxation (Budget Measures) Act 2025 ensure that employers are able to choose to contribute to their employees' CSF accounts at the reduced rate of 3% when their employees take a rate reduction and contribute to their CSF account at the rate of 3%.

Defined benefit schemes

Section EY 11(2), (5)(ab), (9), and (12) of the Income Tax Act 2007

Summary of amendments

The Act includes two remedial amendments to the rules for the taxation of defined benefit superannuation schemes providing life insurance:

- The first facilitates the consolidation of defined benefit schemes under a master trust by allowing the master trust to qualify to be exempt from the life-insurer tax regime.
- The second repeals the requirement for annual approval from the Financial Markets Authority to qualify for the exemption.

Effective date

The amendments apply for the 2025–26 and later income years.

Background

Defined benefit schemes and other superannuation schemes that self-insure death, disability and/or serious illness benefits can apply to be taxed as a registered superannuation scheme as opposed to being taxed under the life-insurer tax regime. The policy intent of this exemption recognises that defined benefit schemes can provide benefits that are technically contingent on human life but would in practice be thought of as superannuation.

Facilitating consolidation of schemes

The remaining defined benefit schemes are small and uneconomic to run. Many such schemes would likely be closed if it were possible. However, there is no workable alternative to leaving them in operation. Consolidation of defined benefit schemes under a ring-fenced consolidation model is a workable solution to this problem.

However, consolidation was not able be done under the law. The barrier to consolidation was that the exemption applied only to schemes established for a single employer (or group of associated employers) that provide benefits only to current and former staff (and their relatives or dependents).

Reducing compliance burden of notification requirement

Under the Income Tax Act 2007 (ITA), schemes were required to apply annually to the Financial Markets Authority to be exempt from the life-insurer tax regime. This process imposed unnecessary compliance and administrative cost.

Key features

Facilitating consolidation of schemes

The amendment allows a scheme that provides benefits to members who, absent a transfer under section 179 of the Financial Markets Conduct Act 2013, would be members or beneficiaries of a scheme that would qualify as exempt from the life-insurer tax regime under section EY 11(5)(a) of the ITA to also be exempt.

Reducing compliance burden of notification requirement

The amendment repeals section EY 11(9) and (12), which set out the requirement for defined benefit schemes to apply annually to be exempt from the life-insurer tax regime.

Schemes are still required to meet the eligibility criteria set out in section EY 11(3) to (8) to qualify as exempt.

RDTI: General approval application due date extension for September balance dates

Section 68CB(2), (2B) (7), (7B), and (7BB) of the Tax Administration Act 1994

Summary of amendment

This amendment extends the Research and Development Tax Incentive (RDTI) general approval due date for businesses with a September balance date. The extension changes the due date from the last day of the third month after the end of the income year (31 December) to 15 January following the end of the income year.

Effective date

The amendment takes effect for RDTI general approval due dates after 1 April 2026.

Background

To participate in the RDTI regime, businesses must first apply for the RDTI by submitting an application for approval, either a general approval application or a criteria and methodologies (CAM) application.[23] Subsequently, they must file a supplementary return alongside their income tax return.

The Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 extended the due date for RDTI general approvals to the last day of the third month after the end of the income year. This meant that the due date for applicants with a September balance date fell on 31 December, during Inland Revenue's shutdown period. This left these businesses unsupported at their due date.

Key features

The general approval application due date for businesses with a September balance date are extended to 15 January following the end of the income year.

The due date for variation applications in relation to businesses with a September balance date is correspondingly adjusted to:

- 15 January following the end of the relevant income year, and

[23]A CAM application is used by businesses that intend to spend more than $2 million per income year on eligible R&D.

- 15 January of the second income year following the relevant income year in relation to variations requests applying solely to supporting activities.

Exclude payments to trustee of deceased estate from definition of pension

Section CF 1(2) of the Income Tax Act 2007

Summary of amendment

Th amendment specifies that a gratuitous payment made to the trustee of the estate of an individual who has died is excluded from the definition of pension under section CF 1 of the Income Tax Act 2007.

Effective date

The amendment takes effect on 1 April 2026.

Background

Under section CF 1, a pension is defined as a gratuitous payment made to a person in return for services that the person provided to the payer. Such payments made to the person's family because of, and within one year after, their death, are excluded from the definition of pension, and therefore, are not income.

Key features

To align with the policy intent and the current exclusions, this amendment specifies that a gratuitous payment made to the trustee of the estate of an individual who has died is excluded from the definition of pension under section CF 1, and therefore, is not income.

To ensure this amendment applies as intended, the contradiction in the definition that specifies that a pension is a "gratuitous payment made to a person in return for services" is replaced with wording that emphasises that a pension is a gratuitous payment made to a person that provided services to the payer.

Available capital distribution amount

Sections CD 44(1), (2)(c) and (f), (10)(a), (8), (8BA), and FO 2(b) of the Income Tax Act 2007

Summary of amendment

The amendment confirms that the amount of capital gains that a company can distribute tax-free on liquidation is a net amount (capital gains *less* capital losses) and that an amalgamated company inherits capital losses as well as capital gains.

Effective date

The amendment takes effect on 1 April 2008, the commencement date of the Income Tax Act 2007 (ITA).

Background

When a company is liquidated, the amount received by a shareholder is only a dividend to the extent that it is more than the available subscribed capital (ASC) and available capital distribution amount (ACDA) of the company. The ACDA of a company is the amount of capital gains that can be distributed tax free when a company is liquidated.

The ACDA is intended to be a net amount (capital gains *less* capital losses). The Tax Counsel Office recently concluded that as a consequence of the 2007 rewrite of the ITA, this intent was not reflected in the legislation.

Detailed analysis

When calculating ACDA on liquidation under section CD 44(1) of the ITA, the formula required that "capital losses" (being aggregate "capital loss amounts") be deducted from "capital gains" (being aggregate capital gain amounts available for distribution to shareholders on liquidation). This meant that the "capital gains" in the formula were limited to the amounts available for distribution, **then** capital losses were deducted. This could have led to an artificial reduction in ACDA that was not intended.

Example 85: Calculation of ACDA

Company A has surplus assets of $100,000 to distribute on liquidation. Its aggregate capital gain amounts total $150,000, and its aggregate capital loss amounts total $50,000, resulting in net capital gain amounts of $100,000.

Under the formula in section CD 44(1) before this amendment, the "capital gain" would have been $100,000 (the amount available for distribution – section CD 44(2)(c)), and then "capital losses" of $50,000 would be deducted, leaving Company A with only $50,000 ACDA.

The amendment confirms that Company A will have $100,000 ACDA.

Similarly, on amalgamation, in accordance with section CD 44(8) before this amendment, only "capital gain amounts" that are available for distribution at the time of the amalgamation would have been inherited by the amalgamated company. In other words, the amalgamated company would only inherit capital gain amounts, not capital losses.

Cryptoasset staking income and PIE eligibility

Sections HL 10(2)(b)(viib) and HM 12(1)(b)(ixb) of the Income Tax Act 2007

Summary of amendments

The amendments clarify that a portfolio investment entity (PIE) fund that holds cryptoassets is able to generate staking income and retain its status as a PIE.

Effective date

The amendments take effect on 1 January 2009, the date that the first cryptoasset, Bitcoin, was created. This clarifies that any staking income that a PIE may have generated in prior years is a permissible income source.

Background

Cryptoassets were excluded from the financial arrangements (FA) rules in the Taxation (Annual Rates for 2021–22, GST and Remedial Matters) Act 2022 (the 2022 Act). The policy rationale for this change was to ensure that cryptoassets were not subject to accrual-based taxation on large, unrealised gains and losses, for what are largely volatile asset positions. Prior to this change it was unclear whether cryptoassets would be subject to the FA rules or not. As part of the 2022 Act changes, cryptoassets that are economically equivalent to debt arrangements (that provide a fixed return known to the holder in advance) remain subject to the FA rules.

As a consequence of these changes, PIEs can now hold cryptoassets as an eligible investment type. Prior to these amendments, section HM 11 of the Income Tax Act 2007 (ITA) required a PIE to have 90% of the value of its assets in land interests, FA, excepted financial arrangements (EFA), or a right or option for any of these interests. The inclusion of cryptoassets in both the EFA and FA (for debt arrangements) provisions provides an unfettered ability for PIEs to invest in cryptoassets.

This outcome is desirable from a policy perspective because it provides a neutral tax treatment between asset classes. This is because it ensures that the law does not bias investment decisions away from cryptoassets when compared to other investment products, such as shares (which are eligible income types for PIEs).

Although cryptoasset PIEs are now permitted under the law, it is noted that section HM 12 requires PIE income to be derived from the correct income type specified in that section (for example, interest, dividend, rent, etc). The failure to satisfy the income type requirement for a PIE may result in ineligibility to be a PIE. The purpose of this rule is to ensure PIEs remain a genuine investment vehicle that targets "passive" returns.

Without legislative clarification, it is unclear whether staking income would fall within section HM 12.

Detailed analysis

New section HM 12(1)(b)(xi) of the ITA provides that an amount derived from validating cryptoasset transactions through a proof-of-stake consensus mechanism, or otherwise using cryptoassets to generate a reward in the form of new or additional cryptoassets, is a valid income type for a PIE to generate. Section HL 10(2) (which is the section HM 12 equivalent that applied before 1 April 2010) is similarly amended, with the insertion of section HL 10(2)(b)(viib) providing for the same outcome.

This change ensures that a PIE that holds cryptoassets is able to generate income through staking by way of proof-of-stake and also by any mechanism that involves utilising the cryptoasset to generate a return, such as by locking up its asset or lending it out for a reward. This ensures that PIEs that hold cryptoassets can operate efficiently and maximise their returns to investors, as would be possible if an individual invested in cryptoassets directly.

Example 86: Staking cryptoassets held by a PIE

Smittie Funds is a PIE fund that holds 40% of its assets in Gains, which is a cryptoasset that features on the decentralised open-source blockchain known as Gain Chain. Gain Chain utilises a proof-of-stake consensus mechanism. Under proof-of-stake, users responsible for validating transactions lock up or "stake" their cryptoassets to validate other transactions on the network. Validators who act honestly and validate transactions correctly are rewarded in newly minted Gains, and those who do not act honestly risk losing their staked Gains.

Smittie Funds holds enough Gains to be eligible to be a validator node on the network. This means that it is able to verify and validate new transactions on the blockchain. Smittie Funds locks up its Gains as collateral in a Gain Chain staking contract so that it can become a validator. By validating transactions on Gain Chain, Smittie Funds generates a reward of approximately 20 Gains per week.

The amendment to section HM 12 provides that an amount derived from validating cryptoasset transactions through a proof-of-stake consensus mechanism is a valid income type for a PIE to generate, Smittie Funds is able to generate this income and maintain its PIE status.

Example 87: Generating a return

$Pilko is a cryptoasset that utilises a proof-of-work consensus mechanism and operates on a blockchain known as the Pilkington Protocol. The Stewart Speculation Income Fund (SSIF) is a PIE fund that holds $Pilko. SSIF lends out its $Pilko by way of a smart contract and is paid an annual return in the form of additional $Pilko. This practice does not involve validating any transactions on the blockchain but is instead providing liquidity for a return.

Because SSIF is using cryptoassets to generate a reward in the form of new or additional cryptoassets, this is a valid income type for the PIE fund to generate under new section HM 12(1)(b)(xi).

Crypto-Asset Reporting Framework – "partner jurisdiction"

Section 196 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (inserting section 185U(4)(h) of the Tax Administration Act 1994)

Summary of amendment

The amendment provides that any reference to "partner jurisdiction" in the Crypto-Asset Reporting Framework (CARF) is to be read as not including New Zealand (even though New Zealand will be included on the list it is required to hold of reportable jurisdictions).

Effective date

The amendment takes effect on 31 March 2026, to align with the application date for the CARF in New Zealand.

Background

The CARF is an OECD developed initiative that requires cryptoasset service providers to collect and report information on users' cryptoasset transactions to tax authorities. The CARF has been given legislative effect in New Zealand and applies from 1 April 2026.

As a default position, the CARF establishes a reporting obligation on New Zealand-based reporting cryptoasset service providers (RCASPs) in respect of non-residents only. This means that a New Zealand-based exchange is required to report to Inland Revenue information in respect of the transactions of its non-resident users (to the extent they are resident in a jurisdiction that has implemented the CARF), and not New Zealand resident users. This information is then exchanged with those jurisdictions.

All Jurisdictions that have implemented the CARF are required to maintain a list of reportable jurisdictions they exchange information with. To enable domestic reporting by RCASPs in respect of New Zealand residents, "New Zealand" will be added to the list that it maintains of reportable jurisdictions.

For this approach to work smoothly, the definition of "partner jurisdiction" (which is defined to include any jurisdiction that is included on the list maintained by said jurisdiction) needs to be amended to not include New Zealand.

Detailed analysis

New section 185U(4)(h) of the Tax Administration Act 1994 provides that the term "partner jurisdiction" in the CARF means any jurisdiction other than New Zealand that has put in place equivalent legal requirements and that is included in a public list issued by New Zealand.

This ensures that all references to "partner jurisdiction" in the CARF work as intended and do not also capture New Zealand.

This amendment was necessary to ensure that domestic reporting works smoothly.

Non-resident contractors' tax: Shipping and aircraft operators

Section YA 1 of the Income Tax Act 2007

Summary of amendment

The amendment codifies an exclusion for non-resident aircraft operators and shipping operators carrying international cargo from non-resident contractors' tax (NRCT).

Effective date

The amendment takes effect on 1 April 2026.

Background

NRCT must be withheld on payments made to non-resident contractors for services performed in New Zealand unless the payment is excluded from the definition of a "schedular payment" or an exemption is obtained. The non-resident contractor can apply this interim tax payment to their final end-of-year tax liability. If the non-resident contractor has no end-of-year tax liability they may be entitled to a refund of the NRCT withheld on the payments they receive.

NRCT originally only applied to construction activities or the hire of personnel or equipment. The scope of NRCT was broadened in 1990 to apply to all work that is undertaken by non-residents in New Zealand. As a result of this expansion, payments made to non-resident aircraft and shipping operators for their activities carried out in New Zealand became subject to NRCT.

Most non-resident aircraft and shipping operators would not be subject to income tax in New Zealand because of both our domestic law and international agreements. Despite the application of the NRCT rules to these operators as a matter of law, the Commissioner of Inland Revenue took the practical position (set out in *Tax Information Bulletin* Vol 2, No 2, August 1990) of not seeking to apply the NRCT rules to non-resident aircraft and shipping operators.

In 1995, the Commissioner further clarified (in *Tax Information Bulletin* Vol 6, No 14, June 1995) that NRCT would be applied to non-resident shipping operators when they were transporting New Zealand goods or domestic passengers between two New Zealand ports.

Key features

The amendment codifies the positions taken by the Commissioner in these two *Tax Information Bulletins*. Contract payments to non-resident aircraft operators and shipping operators will not be

subject to NRCT withholding obligations, except when the contracts are for the transportation of New Zealand goods or domestic passengers between two New Zealand ports.

Non-resident contractors' tax: Software-as-a-service

Section YA 1 of the Income Tax Act 2007

Summary of amendment

The amendment clarifies that contracts for software as a service (SaaS) and similar business models are not subject to non-resident contractors' tax (NRCT).

Effective date

The amendment takes effect on 1 April 2026.

Background

NRCT must be withheld on payments made to non-resident contractors for services performed in New Zealand, unless an exemption is available.

When the NRCT rules were expanded in 1990, SaaS (and related business models – platform as a service and infrastructure as a service – collectively "SaaS contracts") did not yet exist. SaaS involves the use of software without a physical representation, such as a subscription delivered via cloud services. These models were not considered when the NRCT rules were enacted or reviewed resulting in the language and concepts of the NRCT rules in legislation not mapping well onto SaaS contracts.

Due to this ambiguity, questions have emerged about whether NRCT should be withheld on SaaS contracts. For many SaaS contract cases, we have concluded that NRCT should not apply. However, questions are continually emerging about whether marginally different business practices would change this treatment.

Key features

To resolve uncertainty, the amendment clarifies that SaaS contracts are not subject to NRCT except to the extent to which the service involves personnel located in New Zealand who do not satisfy the conditions in section RD 8(1)(b)(v) of the Income Tax Act 2007.

Short selling and foreign shares

Sections CQ 5(1)(c)(xivb), DN 6(1)(c)(xivb), EA 5, EX 29(1)(b), EX 43B, EX 51(9), EX 53, EX 65(1)(b)(i) and (5)(b)(i), HM 35B(2)(b) and (c), and YA 1 of the Income Tax Act 2007

Summary of amendments

The amendments clarify that short selling foreign shares is treated in a similar way to short selling New Zealand shares. This means that the gain/loss from the short selling arrangement will generally be fully taxable/deductible under ordinary revenue account property rules rather than being subject to the foreign investment fund (FIF) rules.

Effective date

The amendments are effective for returning share transfers entered into on or after 1 April 2026.

Background

People sometimes acquire shares so that they can short sell. Short selling involves "borrowing" a share when you think the price is going to fall and selling it on the open market. You then buy a replacement or identical share back on the open market later and return it to your broker with the difference being your gain or loss.

There are special rules in tax legislation that govern returning share transfers and share-lending arrangements, which can involve short selling. Returning share transfers (and share-lending arrangements, which are a subset of returning share transfers) are arrangements involving the borrowing and return of shares. The person who borrows the share is the "share user". The person who lends the share is the "share supplier". The borrowed share is "the original share". The returned share can be the "original share", but in a short selling arrangement the original share has been sold, so the share that is returned is the "identical share".

When short selling New Zealand shares:

- the share user has taxable income under ordinary revenue account property rules from selling the original shares to a third party, and
- the share user has a deduction under ordinary revenue account property rules from purchasing identical shares from a third party.

This means that the gain/loss for the share user from the short selling arrangement is fully taxable/deductible.

When short selling foreign shares, the tax position is less clear because of the potential application of the foreign investment fund (FIF) rules. The law before the amendments could be interpreted to require taxpayers to pay tax on the gross proceeds from a short sell with no deduction for the purchase of the identical shares. For example, if the gross proceeds from the short sell were $100,000 and the cost of the identical shares was $80,000, this interpretation would mean that the taxpayer may be subject to tax on the gross proceeds or $100,000, rather than the net gain of $20,000. This is not an appropriate tax result.

Key features

The amendment clarifies that a share user is not generally taxed under the FIF rules in relation to:

- short selling of an attributing interest in a FIF that is an original share subject to a returning share transfer, and
- the identical share that the share user buys to return to the share supplier.

By excluding these transactions from the FIF rules for a share user, these transactions will be taxed under ordinary revenue account property rules. Related amendments allocate income from a sale of shares as part of a returning share transfer to the year the identical shares are purchased. This timing rule previously only applied when the short selling arrangement was closed out in the immediately following income year.

An amendment to the comparative value method of the FIF rules adds a deeming provision so that the share supplier is treated as the holder of the original share subject to a returning share transfer. The new revenue account method in the FIF rules also includes a similar deeming provision. These provisions match the deeming provisions in the fair dividend rate annual and periodic methods.

An amendment has also been made to ensure that multi-rate portfolio investment entities (PIEs) can include short sale gains and losses on an accruals basis, to the extent they are reflect in the PIE's unit pricing/financial statements.

Detailed analysis

The amendments clarify the tax treatment for share users when short selling with foreign shares. This is because of the uncertainty created by the potential dual application of the FIF rules and the ordinary revenue account property rules when a share user acquires an original share, short sells it, buys an identical share and returns it to the share supplier.

The FIF rules provide that, under the fair dividend rate (FDR) annual and periodic methods, the share supplier is treated as holding the original shares in a returning share transfer, except if the share user is related to the share supplier or the returning share transfer is part of a structured arrangement (referred to here as the "deeming provisions" in section EX 52(14C) or EX 53(16C) of the Income Tax Act 2007 (ITA)). Therefore, one interpretation of the deeming provisions is that the

share user is not the holder of the original shares in a returning share transfer, unless one of the exceptions applies.

The potential issue for short selling foreign shares arises if the share user sells the original share. That part of the short selling arrangement is not included in the share user's FDR income calculation because the share supplier (rather than the share user) is treated as holding the original share under the deeming provisions. The gross proceeds on the short sell are therefore income in the hands of the share user under ordinary rules for revenue account property. Because the share user did not incur a cost when they acquired the original share from the share supplier, they would have no tax deduction.

The share user then buys an identical share at a later date and returns it to the share supplier for no consideration. For the identical share, the share user is treated as holding an attributing interest in a FIF for the purposes of the FDR method, because the deeming provisions only apply to the original share and not to the identical share, under this interpretation. The way the various FDR calculations work means that the share user would therefore not receive a tax deduction for the cost of acquiring the identical share.

The net tax result of the short selling arrangement would be that the share user has assessable income from the short sale of the original share, but no tax deduction for the cost of the identical share. This is not an appropriate tax result, and we are not aware of any taxpayers having treated short selling with foreign shares in this way in practice.

The amendments clarify that short selling foreign shares is treated in a similar way to short selling New Zealand shares. This is achieved by providing that a share user's rights in the original share and identical share are not attributing interests in a FIF, when there is a short selling arrangement under which a share user:

- acquires an original share under a returning share transfer
- disposes of the original share to a person other than the share supplier or a person associated with the share supplier, and
- acquires an identical share to return to the share supplier under the returning share transfer.

Section EA 5 of the ITA allocates income from a short sale of an original share as part of a share-lending arrangement to the year the identical share is purchased if that occurs in the following income year. An amendment changes the reference to share-lending arrangement in that section to returning share transfer, which is a broader term that should make it easier for short sales with foreign shares to qualify for deferral of the income. Another amendment removes the need for the identical share to be purchased in the following income year. This is to better accommodate short-selling arrangements that extend beyond the subsequent income year. The net result is that the timing of the income from the sale of an original share and the deduction from the acquisition of

an identical share in a short selling arrangement will be aligned, even if the short selling arrangement spans more than one income year.

Another amendment to the comparative value method of the FIF rules adds a deeming provision so that the share supplier will be treated as the holder of the original share subject to a returning share transfer. The new revenue account method in the FIF rules also includes a similar deeming provision. These provisions match the deeming provisions in the FDR annual and periodic methods. The comparative value method is generally applied by individuals and trusts that are unlikely to have been the share supplier in returning share transfers when the deeming provisions were introduced, however, there is more potential for this now with the rise of retail share trading and online investment platforms.

Foreign-sourced amounts and non-resident trustees

Section HC 25(2)(c) of the Income Tax Act 2007

Summary of amendment

The amendment repeals a redundant provision that relates to foreign-sourced amounts of income derived by non-resident trustees to improve legislative clarity.

Effective date

The amendment takes effect on 31 March 2026.

Background

Generally, foreign-sourced amounts derived by non-residents are not assessable income (section BD 1(4)(a) and (b) of the Income Tax Act 2007 (ITA)). However, foreign-sourced amounts derived by non-resident trustees can be assessable income, if the settlor of the trust is a New Zealand resident (sections BD 1(4)(c) and HC 25).

Section HC 25 of the ITA contains a redundant provision applying to a New Zealand-resident trustee (section HC 25(2)(c)). It was originally enacted when the legislation was not as clear as it is now regarding the treatment of multiple trustees of a trust. The legislation now clarifies that trustees of a trust are a notional single person.

Accordingly, the reference to a New Zealand resident trustee in section HC 25(2)(c) is redundant because the section can only apply to a non-resident trustee.

Short-process rulings and non-resident applicants with income over $20 million

Section 91EL(4)(e) of the Tax Administration Act 1994

Summary of amendment

The amendment ensures non-residents applying for short-process rulings have their foreign-sourced income considered in determining whether they have income below the $20 million threshold.

Effective date

The amendment takes effect on 31 March 2026.

Background

Short-process rulings are a type of binding rulings targeted at small- to medium-sized enterprises. To determine whether an applicant is a small- to medium-sized enterprise, it must have annual gross income of $20 million or less for the tax year preceding the application.

Due to how the eligibility criteria was drafted, non-resident applicants that derive more than $20 million of income are not precluded from meeting the criteria. This was because "annual gross income" is defined with reference to a person's "assessable income", and assessable income excludes any foreign-sourced income of a non-resident. This meant that non-resident applicants with considerable foreign-sourced income could meet the criteria for a short-process ruling and would be eligible for one unless the Commissioner exercised the discretion not to rule.[24] This also provided non-resident applicants with an unintended advantage over New Zealand tax residents.

Detailed analysis

Section 91EL of the Tax Administration Act 1994 (TAA) sets out the requirements a person must meet to be eligible for a short-process ruling. New section 91EL(4)(e) requires that the reference to "annual gross income" in the eligibility criteria must, for a non-resident applicant, be treated as a reference to the person's income, including any foreign-sourced income, for their most recently completed financial year.[25] Non-resident applicants will still have any exempt or excluded income

[24] See section 91EK(2) of the TAA.

[25] This may not necessarily be a "tax year" or an "income year" if these concepts are not applicable to the applicant due to, for example, having no or minimal presence in New Zealand, or no New Zealand-sourced income.

(under the Income Tax Act 2007) ignored for the purpose of determining whether they breach the income threshold.

Example 88: Non-resident applicant with foreign-sourced income over $20 million

A company is incorporated and tax resident overseas and carries on a small amount of business in New Zealand through an independent distributor. The company is a non-resident for tax purposes.

For the financial year ending 30 June 2026, the company derives:

- $2 million of income from New Zealand activities that is assessable in New Zealand, and
- $30 million of foreign-sourced income that is not assessable in New Zealand.

The company applies for a short-process ruling in September 2026 in relation to the GST treatment of its supplies to New Zealand customers.

Before the amendment, the company's annual gross income for the purposes of the eligibility criteria for short-process rulings was determined by reference to its assessable income. Because the company is a non-resident, its foreign-sourced income of $30 million would have been ignored. The company would therefore have had annual gross income of $2 million and would have met the $20 million income threshold for a short-process ruling.

Under new section 91EL(4)(e), the company's annual gross income must be determined by reference to its total income for its most recently completed financial year, including its foreign-sourced income (and excluding any exempt or excluded income). This means the company's annual gross income is $32 million.

Because the company's income exceeds $20 million, it does not meet the eligibility criteria for a short-process ruling.

Donation tax credit clawback for refunded donations

Section 41A(13) and (13B) of the Tax Administration Act 1994

Summary of amendment

The amendment implements a clawback mechanism allowing Inland Revenue to recover a donation tax credit if the related donation is returned.

Effective date

The amendment takes effect on 26 August 2025 for donations returned on or after that date.

Background

An individual can claim a donation tax credit of 33.33% for a tax year when they make a donation over $5 to an approved organisation (that is, an entity described in section LD 3 of the Income Tax Act 2007) such as a school or charity. The amount of an individual's gifts made in a tax year that are eligible for a tax credit are capped at the total amount of their taxable income.

In some cases, a gift may be returned to an individual by an approved organisation. Under previous legislation, there was no specific provision that allowed the tax credit to be clawed back.

However, it is the policy intent that any donation tax credit should be recovered in these circumstances. A person should not retain the benefit of a donation tax credit when they have not incurred the financial cost of the donation (because the donation has been returned).

Relocation of donation tax credit cap

Section LD 1(3) of the Income Tax Act 2007
Section 41A(3), (4), and (9) of the Tax Administration Act 1994

Summary of amendment

The amendment moves the donation tax credit cap legislation from the Tax Administration Act 1994 (TAA) to the Income Tax Act 2007 (ITA) where the main donation tax credit eligibility rules are located.

Effective date

The amendment takes effect on 31 March 2026.

Background

An individual can claim a donation tax credit of 33.33% when they make a donation over $5 to an approved organisation such as a school or charity. The amount of an individual's donations made in a tax year that are eligible for a tax credit are capped at the total amount of their taxable income.

The entitlement for the donation tax credit arises under section LD 1 of the ITA. However, the rule capping the eligible donations to an individual's taxable income was previously in section 41A(3) of the TAA. This separation could cause uncertainty and increased compliance costs because individuals had to refer to two different Acts to calculate their donation tax credit.

Amounts received in trusts by public or local authorities

Sections CW 38(3), CW 38B(3), and CW 39(3) of the Income Tax Act 2007

Summary of amendments

The amendments remove redundant provisions that set out specific trustee capacity rules in the income tax exemptions for public authorities, public purpose Crown-controlled companies, and local authorities. This improves the legislative clarity of these exemptions.

Effective date

The amendments take effect on 31 March 2026.

Background

Sections CW 38, CW 38B, and CW 39 of the Income Tax Act 2007 (ITA) provide tax exemptions for public authorities, public purpose Crown-controlled companies, and local authorities.

Each of these sections provides that any income derived by the relevant entity in its capacity as a trustee is not exempt income.

In 2018, section YA 5 of the ITA was enacted to clarify that when a person is acting as a trustee of a trust, they are treated for income tax purposes as acting solely in that capacity and not in their personal, body corporate, or other capacity.

Following the introduction of this general rule, it is no longer necessary to include specific trustee capacity rules for public authorities, public purpose Crown-controlled companies, and local authorities.

Financial arrangements remedials

Sections EW 5(25), EW 57, EW 58(1), (4), and (5), and EW 60(2)(b) and (3) of the Income Tax Act 2007

Summary of amendment

The amendments increase the cash basis person and variable principal debt instrument (VPDI) thresholds and simplify requirements for taxpayers to determine whether they are a cash basis person.

Effective date

The following amendments apply from the start of the 2025–26 income year to immediately reduce compliance costs for taxpayers:

- increases to the cash basis person and VPDI thresholds, and
- repealing the cash basis person deferral threshold.

The following amendments apply for the 2026–27 and later income years:

- excluding companies from treating VPDIs as excepted financial arrangements (EFAs), and
- removing the effect of foreign exchange movements from the cash basis person absolute value threshold.

Background

The financial arrangements rules aim to spread income or expenditure from financial arrangements, for example, debt obligations, over the life of the underlying arrangement to prevent accelerated deductions and deferred income recognition.

The rules are complex and can increase compliance costs for taxpayers who have minimal financial arrangements, without significantly affecting tax collected except for minor timing differences.

Smaller taxpayers meeting specific criteria are called "cash basis persons" and report on a cash, not accrual, basis. Small value VPDIs are also excepted to avoid undue compliance costs.

These thresholds have not changed since 1999 and are outdated, with anecdotal low compliance.

Additionally, specific features of the cash basis persons and VPDI thresholds were identified for simplification at the Finance and Expenditure Committee stage.

Key features

The amendments increase the following thresholds:

- VPDI threshold from $50,000 to $100,000
- cash basis person income and expenditure threshold from $100,000 to $200,000, and
- cash basis person absolute value threshold from $1,000,000 to $2,000,000.

Repealing cash basis person deferral threshold

The cash basis person deferral threshold is repealed. The compliance burden required to calculate whether a taxpayer fell under the threshold was high, and all deferred income gets taxed eventually via the base price adjustment at the end of a financial arrangement. Given the other cash basis person thresholds, any deferral is likely to be small.

Limiting foreign exchange movements from cash basis person absolute value threshold

The effect of foreign currency fluctuations on the cash basis person absolute value threshold has been limited. The absolute value threshold is an "every day of the income year" test and is particularly vulnerable to foreign exchange fluctuations arbitrarily pushing taxpayers over the threshold.

The amendment provides that, for financial arrangements denominated in a foreign currency, the absolute value threshold is tested by converting the value of the financial arrangement to New Zealand dollars at the exchange rate on the date the person first became party to the arrangement, and:

- if the principal amount increases, the increase is converted to New Zealand dollars using the exchange rate on the date of the increase and added to the original value, and
- if the principal amount decreases, the decrease is converted to New Zealand dollars using the exchange rate when the person first entered the arrangement and subtracted from the original value.

Excluding companies from treating VPDIs as EFAs

Companies are excluded from treating VPDIs as EFAs. Companies are able to deduct most expenditure under a financial arrangement, including capital amounts, because there is no capital and revenue distinction in the financial arrangements rules. If a VPDI is an EFA, then a company cannot deduct everything, therefore, generally, this means companies elect to treat VPDIs as a financial arrangement even if it might fall below the threshold to be an EFA.

Additionally, excluding companies from treating VPDIs as EFAs may reduce opportunities for timing mismatches between associated persons.

Child support and domestic maintenance requests

Section 180 of the Child Support Act 1991

Summary of amendment

The amendment removes the requirement for payee uplifts to be in writing and signed. This allows for uplifts to be made in a way approved by the Commissioner of Inland Revenue.

Effective date

The amendment takes effect on 31 March 2026.

Background

Payees (carers receiving child support and recipients of domestic maintenance) can elect for Inland Revenue to stop collecting amounts owed to them by the liable person. This is commonly referred to as a request for an "uplift" of arrears and can apply to overdue amounts and future amounts that are not yet payable. The Child Support Act 1991 required that an uplift must be in writing and be signed.

Many references to writing (or in writing and signed) have been removed from the Child Support Act. In 2015, the provisions for electing to end a child support formula assessment were amended to allow for the request to be given either by using the approved form or in another way approved by the Commissioner. Currently, a cancellation can be given in a recorded call. However, if the receiving carer does not want Inland Revenue to collect any part of the assessment payable until the cease date (whether it is in arrears or not yet due), they needed to complete the uplift request separately because this could not be given during the recorded call.

Key features

The requirement for payee uplifts to be in writing and signed has been removed, allowing uplifts to be made in a way approved by the Commissioner. This is consistent, for example, with a request for cancellation of child support.

Clarify Commissioner's ability to publish information on internet

Section YA 1 of the Income Tax Act 2007

Sections 2(1), 20(3CG)(c), 21(4B)(c), and 75(7)(d) of the Goods and Services Tax Act 1985

Sections 3(1), 7AAAA(3), 7AAA(3), 7AAB(3)(c), 14(5), 14H, 22(9)(d), 37(2), 41A(14), 68CE(1), 90A(7), 91AA(6), 91AAB(6), 91AABB(6), 91AAG(7), 91AAI(4)(b), 91AAM(4), 91AAN(9), 91AAO(5), 91AAQ(8), 91AAS(4), 91AAT(7), 91AAX(4), 91AAY(4), 91AAZ(4), 91DA(2), (3), and (4), 91DD(1), 91DE(2) and (3), 91FH(4) and (5), 91FJ(2), 91GG(2) and (3), 124ZC, 124ZH(6), 124ZI(5), 185F(4), and schedule 7, clauses 18 and 33(8) and (10)(c) of the Tax Administration Act 1994

Summary of amendment

This amendment clarifies that when the Commissioner of Inland Revenue is required to publish information under the Tax Administration Act 1994 (TAA), the Income Tax Act 2007 (ITA), or the Goods and Services Tax Act 1985 (GST Act), this requirement can be satisfied when the information is made accessible and available on an internet site maintained by or on behalf of Inland Revenue.

Effective date

The amendment takes effect on 31 March 2026.

Background

The GST Act, ITA and TAA sometimes include provisions that require the Commissioner to publish certain information in "a publication", for example, determinations and rulings on tax issues. Inland Revenue currently publishes this information on its website and in its online *Tax Information Bulletin*.

Detailed analysis

To modernise and align publication obligations with that of other agencies and current practice, new section 14H of the TAA clarifies that when the Commissioner is required to publish information under the TAA, ITA, or GST Act, this requirement is satisfied when the information is made accessible and available on an internet site maintained by or on behalf of Inland Revenue. This amendment ensures that requirements to publish information match Inland Revenue's practice since the *Tax Information Bulletin* moved to online-only format in 2015. This amendment therefore does not result in changes to how information required to be published by the Commissioner is accessed by users.

New section 14H of the TAA only applies to publishing requirements set out in the TAA, ITA, and GST Act because other Inland Revenue Acts either do not require the Commissioner to publish information or have their own notification provisions that already enable the publishing of information on the internet.[26] This approach aligns with other provisions under "Modes of communication" in the TAA (subpart 2D of Part 2), under which new section 14H is inserted.

The Act also makes several consequential and minor amendments to the ITA, GST Act and TAA to cross-reference new section 14H of the TAA and generally modernise and standardise current publishing requirements. Requirements to publish secondary legislation and information in a register have not changed. Requirements for the Commissioner to both notify and publish determinations and rulings have been simplified so that the Commissioner is only required to publish the determination or ruling itself.

[26] See for example section 210 of the Student Loan Scheme Act 2011, which allows the Commissioner to provide information free of charge on an internet site.

Fine defaulter email address sharing

Schedule 7, part C, clause 43(5)(a) and (b) of the Tax Administration Act 1994.

Summary of amendment

The amendment supports the collection and enforcement of monetary penalties by enabling Inland Revenue to share the last known contact details, including email addresses, of fine defaulters with the Ministry of Justice.

Effective date

The amendment takes effect on 1 April 2026.

Background

Inland Revenue has an Information Matching Agreement with the Ministry of Justice to improve the collection and enforcement of monetary penalties. The Tax Administration Act 1994 (TAA) alongside the Agreement enables the Ministry of Justice to share a fine defaulter's name and date of birth with Inland Revenue. Inland Revenue then matches this information with the information it holds about the defaulter. If the information matches, Inland Revenue has been sending the following information it holds about the fine defaulter to the Ministry of Justice:

- the last known physical address
- the last known telephone number
- the name of the last known employer
- the physical address of the last known employer
- the telephone number of the last known employer.

The Ministry of Justice requested an update to the TAA and the Agreement to enable it to request and receive the fine defaulter's email address to enable correspondence via email rather than post. This amendment modernises the authorising provision in the TAA to enable the last known contact details, including email addresses, of the fine defaulter to be shared with the Ministry of Justice.

Unclaimed money remedials

Sections 2, 5B(2), and 11(6)(a) of the Unclaimed Money Act 1971

Summary of amendments

The amendments reduce the unclaimed money time bar from 25 years to 20 years. They also improve the collection of information associated with amounts of unclaimed money when transferred to Inland Revenue.

Effective date

The amendments take effect on 1 April 2026.

Background

Previously, unclaimed money was available to be claimed by owners for 25 years after it had been transferred to Inland Revenue by a holder.

Holders are required to provide Inland Revenue with information about the origin of the funds and the identity of the owner when transferring unclaimed money to Inland Revenue.

Key features

The amendments:

- reduce the existing time bar on an owner's ability to claim an amount of unclaimed money from 25 years to 20 years, and
- expand the information that holders are required to supply when transferring unclaimed money to Inland Revenue.

Detailed analysis

Unclaimed money is money that has become detached or disconnected from its owner for a given period (for example, money left untouched in a bank account for several years). Eventually, this money is transferred to Inland Revenue, which is responsible for administering unclaimed money under the Unclaimed Money Act 1971.

Changes to existing time bar

Previously, owners of unclaimed money had 25 years to claim amounts of unclaimed money once it has been transferred to Inland Revenue. This time bar was introduced in 2021 and was installed in recognition of the fact that money is less likely to be successfully claimed as it increases in age.

The amendment reduces the existing time bar from 25 years to 20 years. This means that owners of unclaimed money need to claim any amounts owed to them within 20 years of it being held by Inland Revenue.

Collection by Inland Revenue

Recent reforms to the Unclaimed Money Act improved the administration of unclaimed money, as well as an owner's ability to make a claim for amounts owed to them. However, it is common for Inland Revenue to receive amounts of unclaimed money with little associated information. When this occurs, Inland Revenue staff often need to contact the transferring holder and seek further information about the funds received. This creates costs for both Inland Revenue and holders of unclaimed money.

The amendment expands a holder's information supply obligations and requires them to supply specific information about the owner of the unclaimed money, when the information is readily available. In addition to the existing information supply obligations,[27] holders will also be required to supply the owner's:

- full name
- date of birth
- IRD number
- full address, and
- contact information.

Where relevant, holders will also have to provide:

- the account number where the money is held
- the date the account was opened, and
- the date of the of the owner's last interaction with the account.

Requiring holders to supply this information with or before the payment of the money to the Commissioner is intended to reduce the need for Inland Revenue staff to contact holders to seek further information about amounts of unclaimed money and result in owners being more efficiently united with their funds.

Example 89: Limited information available relating to unclaimed money – retrieval of some information would require complex IT systems build

Seamus had an account with Spritz Electric that he stopped using when he moved to a new house over five years ago. Some of his electricity bills had been overcharged and were only

[27] The existing information supply requirements that remain applicable are the source, and history of the accrual, of the amount and the source of the owner's entitlement to payment of the money.

corrected after Seamus had moved. The money was credited onto Seamus's Spritz Electric account. Spritz Electric attempted to contact Seamus multiple times over the five years to get the money back to him and had no luck.

Spritz Electric transferred the unclaimed money in the account to Inland Revenue and provided Seamus's full name, the date he opened the account, his last known physical address, and his email address. Spritz had no need to collect Seamus's IRD number or date of birth, so they could not provide this information to Inland Revenue.

Spritz Electric did not know the exact date Seamus last accessed his account. This information was held in a separate computer system and would require a special, complex IT systems build to access the information and to then incorporate it into the information that would be provided to Inland Revenue. This information is not considered readily available to Spritz Electric, so it did not need to be retrieved and provided to Inland Revenue unless later specifically requested.

Example 90: Limited information available relating to unclaimed money – retrieval of some information would require manual search, or costly systems build to access historic system

Glenn opened an account with Money Bags Bank (MBB) early in his career but later switched to a joint account with another bank when he got married. A few years went by, Glenn had moved to a new house, and forgot about his MBB account, which still had about $500 in it. During a regular review of accounts, MBB identified that there were no transactions into or out of Glenn's account for four years. MBB tried to contact Glenn by phone and mail but could not reach him.

With no further contact information, and after five total years of inactivity, MBB transferred the funds to Inland Revenue as unclaimed money. MBB provided Glenn's full name, IRD number, and last interaction date with the account. The bank determined that the date the account was opened, the landline phone number, and the physical address were not readily available and were not provided to Inland Revenue. The date the account was opened was contained in a spreadsheet that would require someone to manually search and extract the date to then provide it to Inland Revenue. The landline phone number and the physical address were stored in an historic system that was being decommissioned. The cost of the systems build required to access and extract this information was considered excessive compared to the size of the system.

Example 91: Limited information available relating to unclaimed money

Ally was overcharged $200 at Bridge City Motel, which the motel only discovered after she checked out. The motel tried unsuccessfully to contact her using the details she provided, but the phone number was invalid.

After holding the money for five years, the motel transferred it to Inland Revenue as unclaimed money, supplying the details Ally provided when she checked in – her name, the region she resided in, mobile number (adding a note it was likely incorrect), and the check-in/check-out dates from their records (as the date the account was established and the date of the last interaction with the account, respectively). This information was all held within a single system and was determined to be readily available.

Example 92: Last interaction with an account

Josh opened a $2,000 renewing term deposit with Really Big Bank (RBB), which automatically reinvested every two years. RBB's standard practice was to send confirmation emails at each reinvestment that did not require a response. After six years and three reinvestments, RBB noticed Josh had not interacted with his account since opening it. RBB emailed, this time requesting him to confirm the next reinvestment, but received no reply. Despite further attempts to contact Josh by email and phone, RBB was unable to reach him. RBB's standard practice when determining the "last interaction" with an account was to treat interactions made by owners of RBB bank accounts as the last physical interaction. Automatic reinvestments and emails sent by RBB requesting a response from the account holder are not considered to be interactions with the account.

The account continued to reinvest automatically for two more investment periods, totalling twelve years. After five years without any contact, RBB classified the funds as unclaimed money and transferred them to Inland Revenue at the end of the final investment period. RBB provided Inland Revenue with Josh's full name, last known address, landline number, account number, date the account was opened, and the last interaction date (which matched the opening date). Notably, the last interaction date was not five years before the transfer of the unclaimed money, but twelve years prior. RBB did not supply Josh's IRD number because it was not held by the bank. All information provided was readily available in RBB's client management system.

Example 93: Money without an identifiable owner – cash left at bank branch

A person went to a bank to deposit $300 but, after receiving an urgent call about a family member, left the bank in a hurry and forgot the envelope of cash. Another customer handed the envelope to a teller, but there was no identifying information on or in the envelope. The bank kept the money and recorded the date it was left behind. After five years with no one

attempting to claim the money, the bank transferred it to Inland Revenue as unclaimed money, providing only the date that it was left at the branch and the location of the branch it was left at.

Example 94: Using the new data points

Sixteen years after opening a term deposit with Really Big Bank (RBB), Josh remembered his term deposit and contacted RBB. The bank told Josh there was no record of his account, and it was likely the funds had been transferred to Inland Revenue as unclaimed money if he had not interacted with the account since he opened it.

The customer service representative at RBB did not have immediate access to the bank's unclaimed money information because it was stored in another computer system. The representative suggested that Josh could get in touch with Inland Revenue or search the register to see if there was anything that matched. Josh searched the unclaimed money register held by Inland Revenue and saw an amount larger than his original term deposit that matched his first and last name on the register. He worked out that the larger amount was approximately the original amount invested, plus interest.

Josh applied for the unclaimed money through MyIR. A few days later, he received a phone call from the unclaimed money team at Inland Revenue. He was able to tell them the region he was living in and the month and year when he had opened the term deposit. Inland Revenue used this information to verify that Josh was the owner of the unclaimed money because his IRD number was not provided, and he was reunited with his investment soon after.

Exclude tax pooling from disputes process

Section 138E(1)(e)(iii) of the Tax Administration Act 1994

Summary of amendment

The amendment excludes tax pooling from the disputes process, in line with the treatment of other discretionary decisions.

Effective date

The amendment takes effect on 1 April 2026.

Background

The Commissioner of Inland Revenue has discretion in allowing a taxpayer to use tax pooling for paying voluntarily disclosed tax shortfalls in some circumstances under the Income Tax Act 2007 (ITA).

Most provisions where the Commissioner has discretion are specifically excluded from the disputes process. Because current legislation does not list tax pooling for voluntary disclosures as one of the legislative provisions that is not subject to challenges, taxpayers can issue a Notice of Proposed Adjustment to the Commissioner when the decision to exercise discretion is declined. This is inconsistent with the treatment of other similar discretionary decisions.

Key features

The amendment inserts a reference to section RP 17B of the ITA into section 138E(1)(e)(iii) of the Tax Administration Act 1994 to specifically exclude tax pooling from the disputes process.

ACC earners' levy payments

Section 3(1) of the Tax Administration Act 1994
Section 245 of the Accident Compensation Act 2001

Summary of amendment

This amendment permits Inland Revenue to pay to the Accident Compensation Corporation (ACC), employee earners' levies collected from employers and any associated penalties calculated using a formula agreed between the Commissioner of Inland Revenue and the Chief Executive of ACC.

The formula closely approximates the actual levies and penalties received, based on recovery rates from previous years.

Effective date

The amendment takes effect on 31 March 2026.

Background

Inland Revenue collects ACC earners' levies as part of pay-as-you-earn deductions (PAYE deductions) on behalf of ACC as its agent and pays the earners' levies to ACC under provisions in the Accident Compensation Act 2001. These provisions required Inland Revenue to pass on the amounts "received" from employees.

Inland Revenue receives information relating to PAYE deductions in aggregate, without separate identification of the ACC earners' levy component (unlike other items, such as KiwiSaver contributions). This means that Inland Revenue cannot pay to ACC the exact amount of earners' levies and associated penalties "received" without requiring employers to incur significant compliance costs amending payroll systems and records.

To closely approximate the actual amounts received by Inland Revenue in relation to earners' levies and associated penalties, Inland Revenue and ACC have developed a formula based on prior year levy recovery rates and a square-up approach, using actual levy recoveries, to determine the amounts of earners' levies and associated penalties that Inland Revenue will pay to ACC.

Key features

The amendment provides that amounts of the earners' levies and any penalties for late filing or payment of those levies that Inland Revenue pays to ACC are calculated using a formula agreed between the Commissioner of Inland Revenue and the Chief Executive of ACC. The formula must

provide for a close approximation of the amount of the levies and penalties collected based on previous years' collection rates.

The Accident Compensation Act amendment accompanies a change to the Tax Administration Act 1994 to ensure the provision deeming earners' levies to be a tax under the Accident Compensation Act is treated as a tax law for the purposes of the Tax Administration Act 1994.

Recovering PAYE on overpayments of earnings-related accident compensation

Regulation 4(10) of Tax Administration (Correction of Errors in Employment Income Information) Regulations 2019

Summary of amendment

The amendment clarifies that the Accident Compensation Corporation (ACC) can recover PAYE from Inland Revenue when an earnings-related accident compensation payment is overpaid and legally recoverable, but ACC decides not to collect that debt for other reasons.

Effective date

The changes take effect on 1 April 2019 to align with the commencement date of the Tax Administration (Correction of Errors in Employment Income Information) Regulations 2019.

Background

Earnings-related compensation overpayments that are recoverable by law, but ACC decides to not collect for other reasons, are not taxable income of the person under the Income Tax Act 2007. These overpayments remain as legally enforceable debt even if ACC decides not to recover the debt. Because these overpayments are not taxable income of the person, PAYE is not legally owed and should be recoverable by ACC.

Clarify period required to qualify for alternative tax treatment

Section RD 20B(1) of the Income Tax Act 2007

Summary of amendment

The amendment clarifies that, to qualify for alternative tax treatment, a multi-year support payment must relate to a period of more than 365 consecutive days.

Effective date

The changes take effect on 1 April 2024, with a savings provision for any tax position taken prior to 31 March 2026.

Background

The Income Tax Act 2007 provides alternative tax treatment for certain backdated lump sum support payments (for example, ACC earnings-related compensation) that related to a period of more than one income year. The intention is to reduce the potential for an unfair tax liability arising from a lump sum being paid in one income year, after the payment was subject to dispute and delay, rather than if it had been spread across the multiple income years it relates to. This is because the receipt of the lump sum may artificially push a recipient into higher tax rates in the year it is derived. The phrase "a period of more than one income year" was interpreted inconsistently, creating uncertainty for taxpayers.

Error correction by multi-rate PIEs

Section HM 27 of the Income Tax Act 2007

Summary of amendment

This change ensures that a portfolio investment entity (PIE) taking reasonable steps to correct an error does not lose PIE status.

Effective date

To ensure that no multi-rate PIE inappropriately loses PIE status, the amendment takes effect on 1 April 2020.

Background

A PIE is an entity that makes investments on behalf of one or more investors and that meets the criteria in the PIE rules.

The PIE rules contain a provision under which a multi-rate PIE will lose its PIE status if it breaches certain requirements about how errors should be corrected.

The error correction rules are prescriptive and inflexible and can be difficult for large PIEs to comply with. This means that their PIE status can be put at risk for a minor breach of the rules.

This outcome is unnecessarily harsh and was not intended for a PIE that makes a reasonable attempt to comply with the rules.

Key features

The amendment provides the Commissioner of Inland Revenue with a discretion to allow a multi-rate PIE to retain PIE status if the Commissioner is satisfied that the breach:

- occurred despite the PIE taking reasonable care
- did not have a material impact on any investor in the PIE, and
- is not part of a pattern of non-compliance.

Replace references to previous personal income tax rate and threshold

Schedule 8, part B, clause 2(3)(d) and (4)(d) and (e) of the Tax Administration Act 1994

Summary of amendment

The amendment replaces previous personal income tax rates and thresholds with the current applicable rate and threshold.

Effective date

The amendment replacing the threshold takes effect on 31 July 2024, to align with the date the threshold was changed.

The amendment adding the 39% tax rate takes effect on 1 April 2021 for the 2021–22 and later income years, to align with the introduction of the 39% tax rate.

Background

Schedule 8 of the Tax Administration Act 1994 (TAA) had a reference to the $48,000 threshold (which was increased to $53,500 with effect from 31 July 2024) and did not include the 39% tax rate (which applied for the 2021–22 and later income years).

Key features

The changes allow the small balance write-off rules in the TAA to be applied as intended when people have used the appropriate tax rates during the year.

Advance election for limited partnerships

Section RF 3(1E) of the Income Tax Act 2007

Summary of amendment

The amendment allows a limited partnership to elect to account for non-resident withholding tax prior to payment when a limited partner makes a payment of non-resident passive income.

Effective date

The amendment takes effect on 1 April 2008 to align with the effective dates in section RF 3 of the Income Tax Act 2007.

Background

Prior to the amendment, a limited partnership could only elect to account for non-resident withholding tax prior to payment when passive income was derived by a non-resident limited partner, but not when a limited partner made a payment of non-resident passive income. This was not an intended restriction.

Key features

To allow borrowers entering lending arrangements to know in advance of a payment if a limited partnership plans to make an election, the amendment allows a limited partnership to elect to account for non-resident withholding tax prior to payment when a limited partner makes a payment of non-resident passive income.

Partnership transparency for voting and market value interests

Sections YA 1, YC 4(9) and YC 11(5) of the Income Tax Act 2007

Summary of amendment

The amendments explicitly provide for transparency when applying company ownership-based tests.

Effective date

The changes take effect on 26 August 2024. This application date aligns with the addition of new section YB 16B to the Income Tax Act 2007 (ITA) by the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025.

Background

The ITA has several ownership-based tests that must be applied for companies to qualify for certain tax benefits, for example, carrying-forward a loss or imputation credits, or to prevent tax avoidance through artificial restructuring.

Prior to the amendment, if a partnership owned shares in a company, the ITA did not explicitly look through to the partners for these ownership-based tests. This had the potential to lead to unintended results. For example, when individuals sold shares in a company to a limited partnership they are partners in, continuity of ownership for the company may have been breached even if their partnership share aligned with their shareholding proportions. This was not the policy intent.

Association rules for securitisations

Sections RF 12(1)(a)(ii), YA 1 and YB 16(3) of the Income Tax Act 2007

Summary of amendment

The amendment ensures association does not arise in the ordinary course of a securitisation arrangement.

Effective date

The changes take effect on 30 March 2025. This aligns with the commencement date of the exclusion from the association rules introduced in the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (Emergency Response Act).

Background

A securitisation is a funding arrangement involving the transfer of receivables to a special purpose vehicle, typically a securitisation trust, which issues debt securities backed by the expected cash flows from those receivables. Securitisation provides an important source of funding for a range of businesses by enabling access to wholesale debt markets on competitive terms and operates as an alternative to funding provided by major banks.

Securitisation arrangements commonly involve multiple trusts, including a securitisation trust and a security trust established in connection with related borrowing, as well as a range of participants such as borrowers, lenders, trustees, and investors. As an ordinary incident of these arrangements, lenders and other participants may have interests in, or powers in relation to, the relevant trusts (for example, as settlors, beneficiaries, or persons with powers of appointment or removal of trustees). These features can give rise to unintended association under the association rules in the absence of a specific exclusion.

The Emergency Response Act introduced an exclusion from the association rules for securitisation trusts and security trusts. However, this exclusion did not address all situations in which association could inadvertently arise in the ordinary course of a securitisation arrangement.

Key features

The Act amends the exclusion from the association rules by inserting new section YB 16(3) into the Income Tax Act 2007 to ensure that association does not arise in the ordinary course of a securitisation arrangement. This ensures a person will not be associated with:

- a borrower simply because the person (or an associate of the person) is a beneficiary, settlor or person with a power of appointment or removal of a trustee of a security trust established in connection with the borrowing, or
- a securitisation trust simply because the person (or an associate of the person), as an ordinary incident of lending to the securitisation trust, is a settlor of the securitisation trust or has the power to appoint or remove the trustee.

Drafting improvements to debt funding special purpose vehicle regime

Sections HR 9BAA(3), HR 9BA(1)(b), HR 10(1), HR 10B, HZ 9(1) and (2), HZ 10(1), (2), and (4), and YA 1 of the Income Tax Act 2007

Summary of amendment

The amendments improve the drafting of the debt funding special purpose vehicle regime.

Effective date

The changes take effect on 30 March 2025. This aligns with the commencement date of the changes to the debt funding special purpose vehicle regime made in the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (Emergency Response Act).

Background

The debt funding special purpose vehicle (DFSPV) regime is designed to support securitisation and similar structured funding arrangements by treating a DFSPV as transparent for income tax purposes when an election is made by the relevant originator. When the regime applies, the assets, liabilities, income, and expenditure of the DFSPV are generally treated as being held or derived by the originator, rather than the DFSPV itself.

The regime recognises that DFSPVs are typically established as special purpose entities to facilitate funding, rather than to earn income in their own right, and that treating the DFSPV as transparent better reflects the economic substance of these arrangements. The regime includes rules governing originator elections, the attribution of assets and liabilities, rollover relief on entry to and exit from the regime, and continuity of treatment when there is a change of originator.

The Emergency Response Act amended the debt funding special purpose vehicle regime.

Submissions on the Bill recommended some further remedial drafting improvements to the regime.

Key features

In particular, the amendments improve the regime by making the following changes:

- **Clarifying and standardising terminology across the DFSPV provisions.** Amendments to sections HR 9 to HR 10B, HZ 9 and HZ 10 replace inconsistent references to "special purpose vehicle" with "debt funding special purpose vehicle", ensuring the regime uses a single, consistent concept throughout.

- **Improving the operation of originator elections for attributed assets.** Amendments to section HR 9BA clarify when an originator election must be made, including by recognising that attributed assets may arise other than on the first transfer of assets. This reduces uncertainty when assets become attributed at a later point in time.
- **Removing unintended restrictions on eligibility to act as an originator.** Amendments to section HR 9BAA ensure that a beneficiary or shareholder is not inadvertently prevented from electing to be an originator solely because they prepare consolidated financial statements for a group, aligning subsections (2) and (3).
- **Extending rollover relief to better reflect the economic substance of DFSPV arrangements.** Amendments to section HR 10B ensure that rollover and continuity relief on a change of originator applies not only to assets, but also to liabilities and other arrangements (such as hedging arrangements), consistent with the transparency of DFSPVs under section HR 9.
- **Introducing clearer timing rules for changes of originator.** Amendments to section HR 10B provide a clearer timing framework when an originator change occurs part-way through an income year, including rules allowing the change to take effect either from the breach date or, by agreement and notification, from the start of the relevant income year. This reduces compliance costs and avoids unnecessary part-year calculations.
- **Improving transitional rules for existing trusts.** Amendments to section HZ 9 allow an election into the DFSPV regime to be made before the filing of an income tax return, aligning the timing of elections with section HR 9BA and reducing uncertainty for trusts adopting GST and withholding tax positions. Amendments to section HZ 10 ensure rollover relief applies appropriately on entry into the DFSPV regime, including by applying to a broader range of property and arrangements and by aligning timing references with when an election has effect.

Shareholder continuity relief

Schedule 2 of the Māori Fisheries Amendment Act 2024

Summary of amendment

The amendment makes a technical change to the tax transitional provisions in the Māori Fisheries Amendment Act 2024 to ensure that the restructure under that Act does not affect existing tax balances, such as Māori authority tax credits.

Effective date

The changes take effect on 31 March 2026.

Background

Te Ohu Kaimoana Trustee Limited submitted on the Taxation (Annual Rates for 2025–26, Compliance Simplification, and Remedial Measures) Bill seeking a change to the Māori Fisheries Amendment Act to address a gap in the tax transitional rules in that Act as the law applied to the cancellation of ordinary shares. Without the amendment, the required cancellation of the shares could have caused a breach of continuity and risk the loss of Māori authority tax credits. This outcome is not intended.

Key features

The amendment provides tax transitional relief in response to a government-mandated restructure of the ownership interest in fisheries settlement assets for iwi. It is a technical change that provides shareholder continuity relief.

The amendment widens the scope of the tax transitional relief provisions in the Māori Fisheries Amendment Act so that they include the cancellation of shares and that the restructure of the ownership interests does not give rise to a breach of shareholder continuity.

This amendment changes a non-tax Act.

Science sector reform remedials

Sections CW 38(5)(e), HZ 12, and YA 1 of the Income Tax Act 2007

Summary of amendment

The amendments ensure Crown Research Institutes (CRIs) that amalgamated or were established as a result of the Government's changes to New Zealand's public science, innovation and technology organisations preserve their tax status.

Effective date

The amendment preserving the tax status of amalgamated CRIs takes effect on 1 July 2025, the date the CRIs amalgamated.

The amendment ensuring the New Zealand Institute for Advanced Technology is subject to tax takes effect on 12 January 2026, the date it was established.

Background

As part of the Government's changes to New Zealand's public science, innovation, and technology organisations, various CRIs were amalgamated. A new CRI, the New Zealand Institute for Advanced Technology was established.

CRIs have historically been taxable entities so remedial amendments are required to preserve their tax status post-amalgamation and ensure the same tax treatment for the New Zealand Institute for Advanced Technology.

Key features

The amendments:

- retrospectively deem the continuation of the amalgamated CRIs for tax purposes from the date of amalgamation (1 July 2025), and
- ensure that the newly established entity New Zealand Institute for Advanced Technology is subject to tax from the date of its establishment (12 January 2026).

Access to tax information by Callaghan Innovation

Schedule 7, part C, clauses 23B(6)(e) and 38 of the Tax Administration Act 1994

Summary of amendment

This amendment ensures that information sharing provisions remain operational after June 2026 when Callaghan Innovation is disestablished and its research and development function is transferred to the Ministry of Business, Innovation and Employment.

Effective date

The amendment takes effect on 1 July 2026.

Updating credit reporting notification requirements

Schedule 7, part C, clause 33(3), (4), (7), and (8) of the Tax Administration Act 1994

Summary of amendment

The amendment allows notification for the purposes of the credit reporting rules by electronic means or standard post.

Effective date

The amendment takes effect on 1 April 2026.

Background

Credit reporting was introduced in 2017 to encourage compliance and help the business community by increasing visibility of significant tax debts. Credit reporting allows the Commissioner of Inland Revenue to share tax debt information with approved credit reporting agencies.

For a taxpayer to be credit reported, the following criteria must be met:

- reportable unpaid tax debt must exceed $150,000 or the debt must have been unpaid for a year and equal to 30% or more of the taxpayer's assessable income for that year
- "reasonable efforts" must have been made by the Commissioner to recover the reportable unpaid tax, and
- the taxpayer must be formally notified 30 days before being credit reported.

Following notification, if the taxpayer does not resolve the debt (for example, make payment or enter into an instalment arrangement), the Commissioner can share tax debt information with approved credit reporting agencies. The rules only apply to companies.

To credit report a taxpayer, the Commissioner must "formally notify" the taxpayer that they have reportable unpaid tax. Section 14D of the Tax Administration Act 1994 (TAA) provides that to "formally notify" a person means the communication must be in print and personally delivered or sent by registered post. Because of this, any communication by electronic means cannot constitute formal notification, including the use of messages via myIR.

Key features

The change updates the rules to reflect modern practices, allowing the Commissioner to notify a taxpayer of the intent to credit report by standard post or electronic means, such as myIR. This

allows the Commissioner to better automate the use of credit reporting with the objective of notifying all eligible taxpayers above the unpaid tax threshold.

The amendment removes the word "formal" in the credit reporting disclosure rules in schedule 7, part C, clause 33 of the TAA. As a result, the formal notification requirements in section 14D of the TAA no longer applies. Instead, the notification requirements in section 14C of the TAA apply. These allow a broader range of options for the Commissioner to notify the taxpayer, including by electronic means, of the intention to credit report them.

Clarifying new debt can be disclosed to credit reporting agencies

Schedule 7, part C, clause 33(4B), (4C), (12)(a) of the Tax Administration Act 1994

Summary of amendment

The amendment clarifies that the Commissioner of Inland Revenue is able to disclose new tax debts that arise after an initial disclosure to an approved credit reporting agency.

Effective date

The amendment takes effect on 1 October 2025.

Background

The credit reporting legislation sets out that the Commissioner can disclose "reportable unpaid tax" to an approved credit reporting agency. Before the Commissioner can make an initial disclosure of a taxpayer's reportable unpaid tax, the criteria in schedule 7, part C, clause 33(3) or (4) of the Tax Administration Act 1994 (TAA) must be satisfied. Clause 33(3) is generally most applicable, and the criteria under that clause are summarised in "Updating credit reporting notification requirements".

It is clear the original amount disclosed can be updated with credit reporting agencies, for example, if a taxpayer makes repayments. However, it is not clear whether the Commissioner can disclose new tax debt to credit reporting agencies if a taxpayer continues to miss tax payments.

If the Commissioner is unable to disclose new tax debt to credit reporting agencies, the market will be operating on outdated information. As a result, the trading community, such as lenders and suppliers, may make decisions without knowing the true debt position of taxpayers they are trading with, which could potentially lead to suboptimal outcomes.

The policy intent of the credit reporting rules is to provide the most up-to-date information to the trading community until the taxpayer has repaid its debt. However, the way the rules are currently drafted, it is unclear if that policy intent has been achieved. This amendment clarifies the legislation to ensure new unpaid tax amounts can be reported to credit reporting agencies after an initial disclosure. This realigns the rules with the original policy intent.

Key features

The amendment introduces clause 33(4B) and (4C) to the credit reporting disclosure rules in schedule 7, part C of the TAA.

Clause 33(4B) clarifies that if a taxpayer has one or more additional amounts of reportable unpaid tax after the original disclosure occurs, the Commissioner will also be able to disclose information about those additional amounts to approved credit reporting agencies.

Clause 33(4C) further clarifies that once a taxpayer has paid the original, and any additional, reported amounts in full, clause 33(4B) no longer applies, that is the Commissioner cannot disclose any further amounts to approved credit reporting agencies under that provision.

The amendment ensures that the Commissioner is able to report additional amounts of reportable unpaid tax owed by a taxpayer that arise after the original disclosure. The Commissioner can disclose additional reportable unpaid tax even if the amount that was subject to the original disclosure had been paid, provided the taxpayer still had an amount of additional reportable unpaid tax that had been disclosed and was outstanding. The amendment ensures the Commissioner can disclose any new reportable unpaid tax amounts that arise until such time as the taxpayer pays off their reportable unpaid tax debt (both the original amount disclosed and any additional amounts disclosed) in full.

If the taxpayer paid off all their original and additional reportable unpaid tax in full, clause 33(4C) means the Commissioner cannot rely on clause 33(4B) to report any subsequent amounts of reportable unpaid tax that arise after the tax debt was paid off in full. Any such subsequent amounts can only be disclosed if the initial disclosure criteria in existing clause 33(3) or (4) were satisfied.

Example 95: Reporting new tax debt – Jones Co

Jones Co has $150,000 of tax debt and the Commissioner proceeds to credit report Jones Co to credit reporting agencies. For any repayments, or penalties and interest in relation to the $150,000 of tax debt, the credit reporting agency is informed. However, if Jones Co missed a future tax payment of $50,000, the legislation is not currently clear whether the Commissioner could report this additional amount. New clause 33(4B) makes it clear that the Commissioner can disclose this new tax debt to credit reporting agencies.

Jones Co subsequently pays the outstanding $200,000 of tax debt. The Commissioner is now unable to report additional amounts unless the initial disclosure criteria are satisfied.

GloBE rules – remedial timing amendment

Sections HP 4, HZ 13, and YA 1 of the Income Tax Act 2007

Summary of amendment

The amendment sets the application date in the Income Tax Act 2007 for the OECD guidance "Tax Challenges Arising from the Digitalisation of the Economy – Global Anti-Base Erosion Model Rules (Pillar Two), Side-by-Side Package", to the application date specified by the OECD.

Effective date

The amendment takes effect on 26 December 2025.

Background

OECD guidance on the Global Anti-Base Erosion Rules (GloBE rules) published on 5 January 2026 contains simplifications to the rules and establishes a side-by-side system. This system excludes multinational enterprises (MNEs) headquartered in countries with qualified domestic and international tax systems (such as the United States) from the GloBE rules.

New Zealand's GloBE rules automatically incorporate OECD guidance published before the start of a MNE's fiscal year. This means the guidance published on 5 January 2026 automatically applies for fiscal years beginning on or after 6 January 2026 (the day after publication). As a result, without the amendment the guidance (and the corresponding side-by-side system) would not apply until the 2027 fiscal year for MNEs with a December balance date whose fiscal year begins, for example, on 1 January. However, it is meant to apply for the 2026 fiscal year in these circumstances.

The amendment sets the application date for this guidance to the date specified by the OECD, which is a few days earlier than the application date that automatically applies.

Key features

The amendment sets the application date of the OECD guidance published on 5 January 2026 as follows:

- For MNEs with a fixed date fiscal year end (for example, 31 December), for fiscal years beginning on or after 1 January 2026.
- For MNEs with a 52- or 53-week fiscal year that ends on the same day of the week each year (for example, the last Thursday in December), for fiscal years beginning on or after 26 December 2025.

The amendment also updates the commencement date of the side-by-side system in the OECD guidance itself (on page 79 onwards) to fiscal years commencing on or after 1 January 2026, or on or after 26 December 2025 for MNEs with a 52- or 53-week fiscal year.

Alignment of contractor definition

Sections RD 5(1B) and RD 7(1B) of the Income Tax Act 2007
Section 6(6) of the Goods and Services Tax Act 1985
Section 4(1) of the KiwiSaver Act 2006

Summary of amendment

The amendments ensure that workers meeting the new definition of "specified contractor", recently introduced into the Employment Relations Act 2000 (ERA), and therefore excluded from being an employee for employment law purposes and treated as engaged under a contract for services, are treated the same for tax purposes (subject to the schedular payment and withholding tax rules).

The changes also apply when any other legislation specifies a worker to be engaged under a contract for services.

The amendments ensure this treatment applies for the purposes of the Income Tax Act 2007, the Goods and Services Tax Act 1985, and the KiwiSaver Act 2006.

Effective date

The amendments take effect on 21 February 2026, the date the new definition took effect for employment law purposes.

Background

The amendment to the ERA, which follows the recent Supreme Court decision relating to Uber drivers,[28] is likely to create a mismatch between the employment law and tax law definitions of an "employee". While other situations currently exist with the potential for a misalignment of the definition of employee for employment law and tax law purposes, the scope for mismatch has been far more limited.

However, the recent amendment to the ERA introduces a statutory definition of "specified contractor" that is separate from the determination as to whether someone is engaged under a contract of service (an employee) or a contract for services (a contractor), which is the key test for tax purposes. Because the tax definition of employee follows this common law test and is not linked to legislation, the enactment of the new definition in the ERA creates the potential for a

[28] Rasier Operations BV, Uber Portier BV, Uber BV, Portier New Zealand Limited and Rasier New Zealand Limited v E Tū Incorporated and First Union Incorporated – SC 105/2024

mismatch between a worker's employment status for employment law and tax law purposes on a large scale, which would be undesirable for those workers and the businesses engaging them.

Key features

The amendments ensure that when a worker is excluded from being an employee and deemed to be working under a contract for services under the ERA, they have the same status for tax purposes.

The exception to this will be when a person is subject to the schedular payment rules, which will continue to apply to a person despite their employment and tax status.

Water services reform – remedial tax issue

Sections CW 55BC(2), CZ 42, and YA 1 of the Income Tax Act 2007

Summary of amendment

This amendment ensures that no income tax liabilities arise as a result of a water organisation's change in tax status from taxable to exempt under section CW 55BC of the Income Tax Act 2007 (ITA).

Effective date

The amendment applies for the 2024–25 and 2025–26 income years.

Background

The Local Water Done Well reforms established new service delivery models such as "water organisations".

In August 2025, the Local Government (Water Services) (Repeals and Amendments) Act 2025 was enacted. This included an amendment to the ITA (new section CW 55BC) to exempt from income tax income derived by a water organisation for the 2025–26 and later income years.

Section 255 of the Local Government (Water Services) Act 2025, provides that, for the purposes of Inland Revenue Acts, the new water services entities set up as part of the Local Water Done Well reforms are treated as if they were the same person as the person previously providing water services. This ensures that any transfer of assets or liabilities between parties are tax neutral and do not result in either tax liabilities or tax benefits.

However, no provisions were included to ensure tax neutrality for a water organisation when there is no transfer of assets or liabilities but there is a change in tax status because of the reforms. As such, it may have been possible for income tax liabilities, in particular depreciation recovery income, to have arisen as a result of a water organisation's change in tax status.

Depreciation recovery income

When a depreciable asset is sold above its depreciated value for tax purposes, the difference between the tax book value and lesser of the sale price and original cost is taxed as depreciation recovery income. This effectively claws back past depreciation deductions that exceed the actual depreciation in the value of the asset.

Depreciation recovery income is also deemed to arise when there is a change in use of an asset. This includes when an asset is no longer used to derive assessable income because a tax-paying

entity becomes exempt from income tax. In this case, depreciation recovery income is calculated on the difference between the tax book value and the lesser of the market value and cost of the assets.

The water services reforms were intended to be tax neutral. The amendment gives effect to that intent by ensuring depreciation recovery income (and any other tax liabilities) do not arise when a water organisation has become exempt from income tax under the reforms.

Key features

New section CZ 42 of the ITA ensures that no income tax liabilities arise for a water organisation that became tax exempt because of the Local Government (Water Services) (Repeals and Amendments) Act. Specifically, depreciation recovery income does not arise.

This amendment only applies for the 2024–25 and 2025–26 income years. The 2024–25 income year is the year that depreciation recovery income will, in the absence of this amendment, be deemed to arise. The 2025–26 income year is the first year in which a water organisation's income becomes exempt under section CW 55BC of the ITA.

Maintenance amendments

Maintenance amendments table

Summary of amendments

The amendments in the table are minor technical maintenance items. The amendments in the table correct any of the following:

- ambiguities
- compilation issues
- cross-references
- drafting consistency, including readers' aids – for example, the defined terms lists
- grammar
- consequential amendments arising from substantive rewrite amendments, and
- inconsistent use of terminology and definitions.

Effective date

The amendments take effect on the dates outlined in the table.

Key features

Maintenance amendments

Section	Act	Amendment	Effective Date
CC 15	ITA 07[29]	Correcting terminology	22 May 2025
DE 1, DE 2B, DE 5, DE 7, DE 9, DE 10, DE 11, DE 12	ITA 07	Replacing undefined terms with defined terms	1 April 2008 for most, 1 April 2017 for some
DI 5, DI 6	ITA 07	Correcting terminology	22 May 2025
EX 46(1)(b)	ITA 07	Inserting cross-reference	1 July 2018
EX 62(9), (10)	ITA 07	Removing redundant provisions	1 April 2025

[29] Income Tax Act 2007

Section	Act	Amendment	Effective Date
FB 1B	ITA 07	Correcting punctuation	31 March 2026
FC 9, RL 1	ITA 07	Correcting cross-reference	1 July 2024
HM 35(8)	ITA 07	Correcting typographical error	31 March 2026
MK 2	ITA 07	Correcting cross-reference	31 March 2026
RD 50	ITA 07	Updating threshold to correct amount	1 April 2025
YA 1 (definition of imputation credit)	ITA 07	Removing redundant reference	31 March 2026
YA 1 (market value interest, voting interest)	ITA 07	Inserting missing words	1 April 2010 26 August 2024
YA 1 (definition of schedular income)	ITA 07	Removing redundant reference	1 April 2010
YA 2	ITA 07	Removing redundant references	31 March 2026
Schedule 35	ITA 07	Updating Crown-controlled company names	21 February 2025
CD 40, CD 41, OB 71, OB 72, OB 72B, OP 6, RM 10, RM 13, RM 17, RM 22, RM 23, RM 26, RM 33, schedule 1	ITA 07	Removing redundant references	31 March 2026
11(1)(k)	GSTA[30]	Updating cross-reference	30 March 2025

[30] Goods and Services Tax Act 1985

Section	Act	Amendment	Effective Date
11A	GSTA	Inserting cross-reference	30 March 2025
90	GSTA	Correcting cross-reference	30 March 2025
3 (definition of tax)	TAA[31]	Deleting unnecessary word	31 March 2026
22C	TAA	Correcting cross-reference	31 March 2026
32M(1B)	TAA	Correcting wording	1 April 2008
32M(1B), (2)	TAA	Correcting wording	1 April 2010
75	TAA	Removing redundant provision	31 March 2026
226E	TAA	Removing redundant provision covered by Legislation Act	31 March 2026
184, 184AA	TAA	Removing redundant references	31 March 2026
4 (definition of compulsory employer contribution), 101A	KSA[32]	Replacing undefined term with defined term	31 March 2026
Schedule 1	KSA	Deleting redundant subclauses	31 March 2026
Schedule 1	SLSA[33]	Replacing outdated references	31 March 2026

[31] Tax Administration Act 1994
[32] KiwiSaver Act 2006
[33] Student Loan Scheme Act 2011

Section	Act	Amendment	Effective Date
2(36)	Emergency Response Act[34]	Correcting commencement of a provision	30 March 2025

[34] Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025

Revocations

Revocations

Summary of amendment

The Act revokes the following regulations as a consequence of the shift of the power to set certain rates from the Governor-General to the Commissioner of Inland Revenue:

- Income Tax (Fringe Benefit Tax, Interest on Loans) Regulations 1995 (SR 1995/41)
- Taxation (Use of Money Interest Rates Setting Process) Regulations 1997 (SR 1997/7)
- Taxation (Use of Money Interest Rates) Regulations 1998 (SR 1998/105).

Effective date

The revocations take effect on 31 March 2026.