

- (i) either company C or company D, or both, leave the group; and
 - (ii) at the date of the departure, company C is in liquidation, receivership, or does not satisfy the solvency test set out in section 4 of the Companies Act 1993; and
- (f) the liability referred to in paragraph (a) remains unpaid at the date on which either company C or company D, or both, leaves the group.

CG 2D(2) INCOME OF PROFIT COMPANY An amount equal to the amount of the unpaid liability referred to in subsection (1)(f) is income of company D.

CG 2D(3) TIMING OF INCOME Company D is treated as deriving the income immediately before the date on which either company C or company D, or both, leaves the group.

CG 2D(4) WHEN SUBSECTION (5) APPLIES Subsection (5) applies for the purposes of subsection (1)(c)(ii) when—

- (a) a transaction results in an amount being received by a creditor of company C within a period of 2 years before either company C or company D, or both, leaves the group; and
- (b) the payment of the amount reduces, in whole or in part, the liability of company C so that company C satisfies the solvency test set out in section 4 of the Companies Act 1993.

CG 2D(5) COMMISSIONER'S DISCRETION The Commissioner may treat company C as not satisfying the solvency test set out in section 4 of the Companies Act 1993 if the Commissioner considers—

- (a) the amount is paid when company C is insolvent; and
- (b) the payment has allowed the creditor to receive more towards the satisfaction of a debt owed by company C than the creditor would receive or would be likely to receive if company C were placed in liquidation on the day on which company C or company D, or both, leaves the group.

CG 2D(6) NO APPLICATION TO FINANCIAL ARRANGEMENTS This section does not apply to a liability that is a financial arrangement, whether or not the liability has been remitted or cancelled.

CG 2D(7) RELATIONSHIP WITH OTHER PROVISIONS This section—

- (a) overrides section CG 2;
- (b) is modified by section FM 5(4) (Liability when company leaves consolidated group);
- (c) is overridden by sections IC 11 and IC 12 (which relate to the tax losses of certain group companies) but only to the extent to which sections IC 11 and IC 12 apply to reduce a tax loss component arising in an earlier tax year that would otherwise be subject to this section.

Defined in this Act: amount, arrangement, Commissioner, company, deduction, financial arrangement, group of companies, income, liquidation, net income, net loss, pay, tax loss, tax loss component, tax year

CG 2E REMITTED AND OTHER AMOUNTS: INCOME APPORTIONMENT

CG 2E(1) WHEN THIS SECTION APPLIES This section applies when—

- (a) an amount of income is treated as having been derived by a company under section CG 2C or CG 2D; and
- (b) in relation to the income, some or all of a tax loss of a company that is part of a group of companies has been made available to more than 1 company in the group.

CG 2E(2) APPORTIONMENT The company that is treated as deriving the income may choose to apportion the income among other companies in the group.

CG 2E(3) LIMITED AMOUNT The amount of the income referred to in subsection (2) must be no more than the total tax loss referred to in section CG 2C(1)(e) or CG 2D(1)(d), as applicable, for all previous tax years.

CG 2E(4) DEFAULT APPORTIONMENT If the company that is treated as deriving the income does not make an apportionment under subsection (2), the income must be divided equally among the companies in the group.

CG 2E(5) COMPANIES IN GROUP For the purposes of subsections (2) and (4),—

- (a) the company that made the tax loss available is treated as excluded from the group;
- (b) the company must be part of the group of companies at the date on which section CG 2C(3) or CG 2D(3) applies.

CG 2E(6) APPLICATION TO CONSOLIDATED GROUPS This section does not apply to a company that is part of a consolidated group of companies, for which, see section FM 5(3) to (5) (Liability when company leaves consolidated group).

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

CG 3 BAD DEBT REPAYMENT

CG 3 An amount received by a person for a bad debt for which the person has been allowed a deduction is income of the person.

Defined in this Act: amount, deduction, income

Compare: 2004 No 35 s CG 3

CG 4 RECEIPTS FOR EXPENDITURE OR LOSS FROM INSURANCE, INDEMNITY, OR OTHERWISE

CG 4(1) WHEN THIS SECTION APPLIES This section applies when—

- (a) a person is allowed a deduction for expenditure or loss; and
- (b) the person derives an amount relating to the expenditure or loss, whether through insurance, indemnity, or otherwise; and
- (c) the amount, to the extent of the deduction, is not income of the person under any other provision of this Act.

CG 7B DISPOSALS OR APPLICATIONS AFTER EARLIER DEDUCTIONS

CG 7B(1) WHEN THIS SECTION APPLIES This section applies when a person—

- (a) has a deduction under section DB 19, DB 37, or DB 40BA (which relate to expenditure on abortive or failed applications) for expenditure; and
- (b) acquires property (the **application property**) as a result of the expenditure; and
- (c) disposes of the application property for consideration or uses the application property in the lodging of a patent application with a complete specification or a design registration application, or in obtaining the grant of a resource consent or plant variety rights.

CG 7B(2) INCOME: AFFECTING COST IN SECTION EE 25, BASE VALUE IN SECTION EE 57 The person has income of the amount described in—

- (a) subsection (3), if the application property is disposed of for consideration, in the income year of the disposal; or
- (b) subsection (4), if the application property is used in the lodging of a patent application with a complete specification or a design registration application, or in obtaining the grant of a resource consent or plant variety rights, in the income year of the lodgment or grant.

CG 7B(3) LESSER OF TOTAL DEDUCTIONS AND CONSIDERATION FROM DISPOSAL The amount is—

- (a) the amount of the consideration derived for the disposal that is not income under another provision of this Act, if that amount is less than the total amount of deductions referred to in subsection (1)(a); or
- (b) the total amount of deductions referred to in subsection (1)(a), if paragraph (a) does not apply.

CG 7B(4) DEDUCTIONS IN ACQUIRING PROPERTY The amount is the total amount of deductions referred to in subsection (1)(a) for expenditure incurred in acquiring the application property.

Defined in this Act: deduction, design registration application, dispose, income, plant variety rights.

CG 7C DISPOSAL OR RERECOGNITION OF DERECOGNISED NON-DEPRECIABLE ASSETS

CG 7C(1) WHEN THIS SECTION APPLIES This section applies when, for a non-depreciable intangible asset, a person has been allowed a deduction under section DB 34 (Research or development) because section DB 34(3) applies and—

- (a) the intangible asset is disposed of in an income year for consideration that is not income under another provision of this Act;
- (b) the intangible asset is rerecognised for financial reporting purposes in an income year.

CG 7C(2) DISPOSAL FOR CONSIDERATION If subsection (1)(a) applies, an amount equal to the deduction described in subsection (1) is income of the person for the income year, unless subsection (3) applies.

CG 7B(1)

CG 7C(3) SPECIAL CASE: DISPOSAL FOR CONSIDERATION LESS THAN DEDUCTION If subsection (1)(a) applies and the consideration is less than the deduction described in subsection (1), then, despite subsection (2), an amount equal to the consideration is income of the person for the income year.

CG 7C(4) RERECOGNITION If subsection (1)(b) applies, an amount equal to the deduction described in subsection (1) is income of the person for the income year.

CG 7C(5) RELATIONSHIP WITH SUBPART EE For the purposes of subpart EE (Depreciation), the person is treated as never having the deduction described in subsection (1).

Defined in this Act: deduction, dispose, income, income year

CG 8 CAPITAL CONTRIBUTIONS

CG 8(1) WHEN THIS SECTION APPLIES This section applies for the income year (the **first year**) in which a person derives a capital contribution and for the 9 income years after that first year.

CG 8(2) INCOME For an income year, the amount given by the following formula is income of the person derived in that income year:

$$\text{capital contribution} \div 10.$$

CG 8(3) DEFINITION OF ITEM IN FORMULA In the formula, **capital contribution** is the capital contribution that the person derives in the first year.

CG 8(4) EXCEPTION This section does not apply for the capital contribution if the person has chosen, in accordance with section DB 64(1)(c) (Capital contributions), to apply section DB 64 instead.

Defined in this Act: amount, capital contribution, income, income year, return of income

CG 9 RECOVERY OF DEDUCTIONS FOR AIRCRAFT ENGINE OVERHAUL

CG 9 An amount of recovery income that a person has under section EJ 27 (Disposal of aircraft engine or aircraft) is income of the person.

Subpart CH — Adjustments**Contents****Matching rules: revenue account property, prepayments, and deferred payments**

CH 1	Adjustment for closing values of trading stock, livestock, and excepted financial arrangements
CH 2	Adjustment for prepayments
CH 3	Adjustment for deferred payment of employment income
	Change to accounting practice
CH 4	Adjustment for change to accounting practice
	Goods and services tax (GST)
CH 5	Adjustment for GST
	Finance leases
CH 6	Adjustments for certain finance and operating leases

Financial instruments and hybrid mismatches

CH 12 INCOME FROM HYBRID MISMATCH ARRANGEMENT

CH 12 An amount is assessable income if it is treated as assessable income under subpart FH (Hybrid and branch mismatches of deductions and income from multi-jurisdictional arrangements).

Defined in this Act: amount, assessable income

Subpart CO — Income from voluntary activities

Contents

CO 1 Income from voluntary activities

CO 1 INCOME FROM VOLUNTARY ACTIVITIES

CO 1(1) INCOME An amount derived by a person in undertaking a voluntary activity is income of the person.

CO 1(2) RELATIONSHIP WITH SECTION CW 62B This section is overridden by section CW 62B (Voluntary activities).

Defined in this Act: amount, income

Subpart CP — Income from portfolio investment entities

Contents

CP 1 Attributed income of investors in multi-rate PIEs

CP 1 ATTRIBUTED INCOME OF INVESTORS IN MULTI-RATE PIEs

CP 1(1) WHEN THIS SECTION APPLIES This section applies when a multi-rate PIE attributes an amount of income for an income year calculated under sections HM 35, HM 35C, and HM 36 (which relate to the attribution of amounts to investors) to a person who is an investor in the PIE.

CP 1(2) INCOME The amount is income of the person in the income year of the person in which the PIE's income year ends.

Defined in this Act: amount, income, income year, investor, multi-rate PIE, PIE

Compare: 2007 No 97 s CP 1

Subpart CQ — Attributed income from foreign equity

Contents

Attributed controlled foreign company income

CQ 1 Attributed controlled foreign company income
CQ 2 When attributed CFC income arises
CQ 3 Calculation of attributed CFC income

Foreign investment fund income

CQ 4 Foreign investment fund income
CQ 5 When FIF income arises
CQ 6 Calculation of FIF income
CQ 7 Treatment of attributing interests subject to returning share transfer (*repealed*)

Attributed controlled foreign company income

CQ 1 ATTRIBUTED CONTROLLED FOREIGN COMPANY INCOME

CQ 1 Attributed controlled foreign company (CFC) income of a person is income.

Defined in this Act: attributed CFC income, controlled foreign company, income

Compare: 2004 No 35 s CQ 1

CQ 2 WHEN ATTRIBUTED CFC INCOME ARISES

CQ 2(1) GENERAL RULE A person has **attributed CFC income** from a foreign company in an income year if—

- (a) the foreign company is a CFC at any time during 1 of its accounting periods, under sections EX 1 to EX 7 (which relate to the definition of a controlled foreign company); and
- (b) the accounting period ends during the income year; and
- (bb) the person is not a portfolio investment entity; and
- (c) the person has an income interest in the foreign company for the accounting period, under sections EX 8 to EX 13 (which relate to calculating a person's income interest); and
- (d) at any time in the accounting period, the person is a New Zealand resident who is not a transitional resident; and
- (e) the person's income interest is 10% or more for the part of the accounting period during which the person is a New Zealand resident who is not a transitional resident, under sections EX 14 to EX 17 (which relate to the 10% threshold); and
- (f) either—
 - (i) the CFC has net attributable CFC income for the accounting period under section EX 20C (Net attributable CFC income or loss); or
 - (ii) the special rule in section EX 19 (Taxable distribution from non-complying trust) applies because the CFC gets a distribution from a non-complying trust; and
- (g) (*repealed*)
- (h) the CFC is not a non-attributing active CFC for the accounting period, under section EX 21B (Non-attributing active CFCs); and
- (i) the CFC is not a non-attributing Australian CFC for the accounting period, under section EX 22 (Non-attributing Australian CFCs).

CQ 2(2) SPECIAL RULE: TAXABLE DISTRIBUTIONS UNDER THE ATTRIBUTABLE FIF INCOME METHOD A person also has **attributed CFC income** if section EX 50(5) (Attributable FIF income method) applies because—

- (a) the person has an attributing interest in a foreign investment fund (FIF); and
- (b) the person is using the attributable FIF income method to calculate FIF income; and
- (c) the FIF receives a taxable distribution from a non-complying trust.

CQ 2(2B) SPECIAL RULE: ATTRIBUTED CFC AMOUNT FROM PERSONAL SERVICES If a person and a non-attributing active CFC or non-attributing Australian CFC meet the requirements of subsection (1)(a) to (c) and the CFC derives income from personal services that is an attributable CFC amount under section EX 20B(3)(h) (Attributable CFC amount), the person has **attributed CFC income** from the CFC equal to the product of—

- (a) the person's income interest in the CFC;
- (b) the amount by which the CFC's income from personal services exceeds the expenditure incurred by the CFC in deriving the income from personal services.

CQ 2(3) TREATED AS DERIVED WHILE PERSON NEW ZEALAND RESIDENT Attributed CFC income of a person who has stopped being a New Zealand resident is treated as being derived while the person was a New Zealand resident.

CQ 2(4) (repealed)

Defined in this Act: accounting period, attributable CFC amount, attributable FIF income method, attributed CFC income, attributing interest, CFC, distribution, dividend, FIF, FIF income, foreign company, grey list, income, income interest, income year, net attributable CFC income, New Zealand resident, non-attributing active CFC, non-attributing Australian CFC, non-complying trust, portfolio investment entity, taxable distribution, transitional resident

Compare: 2004 No 35 s CQ 2

CQ 3 CALCULATION OF ATTRIBUTED CFC INCOME

CQ 3 The amount of attributed CFC income is calculated under the rules in sections EX 18 to EX 20 (which relate to the calculation of attributed CFC income or loss).

Defined in this Act: amount, attributed CFC income

Compare: 2004 No 35 s CQ 3

Foreign investment fund income

CQ 4 FOREIGN INVESTMENT FUND INCOME

CQ 4 FIF income of a person is income.

Defined in this Act: FIF income, income

Compare: 2004 No 35 s CQ 4

CQ 2(2)

CCH New Zealand Limited

CQ 5 WHEN FIF INCOME ARISES

CQ 5(1) GENERAL RULE A person has **FIF income** in an income year if—

- (a) at any time in the year, the person has—
 - (i) rights in a foreign company, or a foreign superannuation scheme, or an entity listed in schedule 25, part A (Foreign investment funds); or
 - (ii) rights under a life insurance policy issued by a non-resident; and
- (b) at that time, the rights are an attributing interest in a FIF under section EX 29 (Attributing interests in FIFs); and
- (c) at that time, the rights are not exempt from being an attributing interest in a FIF under any of—
 - (i) the exemption for ASX-listed Australian companies in section EX 31 (Exemption for ASX-listed Australian companies);
 - (ii) the exemption for Australian unit trusts with 25% turnover in section EX 32 (Exemption for Australian unit trusts with 25% turnover);
 - (iii) the exemption for Australian regulated superannuation savings in section EX 33 (Exemption for Australian regulated superannuation savings);
 - (iv) the CFC rules exemption in section EX 34 (CFC rules exemption);
 - (v) the exemption in section EX 35 (Exemption for interest in FIF resident in Australia);
 - (vi) the 10-year exemption for a venture capital company emigrating to a grey list country in section EX 36 (Venture capital company emigrating to grey list country: 10-year exemption);
 - (vii) the 10-year exemption for a grey list company owning a New Zealand venture capital company in section EX 37 (Grey list company owning New Zealand venture capital company: 10-year exemption);
 - (viii) the exemption for an employee share purchase scheme of a grey list company in section EX 38 (Exemptions for employee share schemes);
 - (ix) the terminating exemption for a grey list company with numerous New Zealand shareholders in section EX 39 (Terminating exemption for grey list company with numerous New Zealand shareholders);
 - (x) the terminating exemption for a grey list company investing in Australasian equities in section EX 32 (Terminating exemption for grey list FIF investing in Australasian listed equities);
 - (xi) the foreign exchange control exemption in section EX 40 (Foreign exchange control exemption);
 - (xii) the exemption for a non-resident or transitional resident in section EX 41 (Income interest of non-resident or transitional resident);
 - (xiii) (repealed)

New Zealand Tax Legislation for Students

CQ 5(1)

EJ 4(2) TIMING OF DEDUCTION: RETENTION OF FILM RIGHT If the person has the film right at the end of an income year, the deduction that is allocated to the income year is the lesser of—

- (a) the greater of—
 - (i) an apportioned amount of the deduction, calculated for the income year under subsection (3); and
 - (ii) the amount of film income derived in the income year; and
- (b) the remaining deduction.

EJ 4(3) CALCULATION OF APPORTIONED AMOUNT The apportioned amount is calculated for the income year using the formula—
(completed months ÷ non-completed months) × deduction.

EJ 4(4) DEFINITION OF ITEMS IN FORMULA In the formula,—

- (a) **completed months** is the number of months in the income year, including a part of a month, for which the film is completed;
- (b) **non-completed months** is 24, reduced by the number of complete months in the period that—
 - (i) starts on the first day of the month in which the film is completed; and
 - (ii) ends on the last day of the income year before the income year referred to in subsection (2);
- (c) **deduction** is the remaining deduction.

EJ 4(5) TIMING OF DEDUCTION: DISPOSAL OF FILM RIGHT If the person disposes of the film right during an income year, and does not have a film right in the film at the end of the income year, the remaining deduction is allocated to the income year.

EJ 4(6) MEANING OF REMAINING DEDUCTION In this section, **remaining deduction** means, for an income year, the amount of the deduction for expenditure incurred before the end of the income year that has not been allocated to an earlier income year.

Defined in this Act: amount, completed, deduction, feature film, film, film income, film right, income year, large budget film grant, remaining deduction

Compare: 2004 No 35 s EJ 4

EJ 5 EXPENDITURE INCURRED IN ACQUIRING FILM RIGHTS IN FILMS OTHER THAN FEATURE FILMS

EJ 5(1) FILMS OTHER THAN FEATURE FILMS A deduction for expenditure that a person incurs in acquiring a film right is allocated under this section if the film is not a feature film and—

- (a) the deduction is allowed under section DS 1 (Acquiring film rights);
- (b) the deduction is allowed under section DS 2 (Film production expenditure) and the film is one for which a large budget film grant is made.

EJ 4(2)

EJ 5(2) TIMING OF DEDUCTION: RETENTION OF FILM RIGHT If the person has the film right at the end of an income year,—

- (a) the deduction that is allocated to the income year in which the film right is acquired or the film is completed, whichever is later, is—
 - (i) 50% of the deduction; or
 - (ii) if the film income derived in the income year is more than 50% of the deduction, the lesser of the amount of film income and the total amount of the deduction; and
- (b) the deduction that is allocated to the next income year is the remaining deduction.

EJ 5(3) TIMING OF DEDUCTION: DISPOSAL OF FILM RIGHT If the person disposes of the film right during an income year, and does not have a film right in the film at the end of the income year, the remaining deduction is allocated to the income year.

EJ 5(4) MEANING OF REMAINING DEDUCTION In this section, **remaining deduction** means, for an income year, the amount of the deduction that has not been allocated to an earlier income year.

Defined in this Act: amount, completed, deduction, feature film, film, film income, film right, income year, large budget film grant, remaining deduction

Compare: 2004 No 35 s EJ 5

EJ 6 CERTIFICATION OF NEW ZEALAND FILMS

EJ 6(1) CERTIFICATION OF NEW ZEALAND FILMS The New Zealand Film Commission may certify that a film is a New Zealand film, if the Commission is satisfied that the film has, or will on completion have, a significant New Zealand content, as determined under section 18 of the New Zealand Film Commission Act 1978.

EJ 6(2) FINAL AND PROVISIONAL CERTIFICATES The certificate issued by the New Zealand Film Commission must be—

- (a) a provisional certificate, if the film is not completed;
- (b) a final certificate, if the film is completed.

EJ 6(3) APPLICATIONS FOR CERTIFICATION OF NEW ZEALAND FILMS An application to the New Zealand Film Commission for a certificate that a film is a New Zealand film must be in writing and must provide the information that the Commission requires.

EJ 6(4) NOTICE OF CERTIFICATE TO COMMISSIONER The New Zealand Film Commission must send a copy of the provisional certificate or the final certificate to the Commissioner immediately after issuing it.

EJ 6(5) REVOCATION OF CERTIFICATE The New Zealand Film Commission may revoke a provisional certificate or a final certificate if the Commission is satisfied that the certificate should not remain in force, whether because an incorrect statement was made in the provision of information for the purpose of obtaining a certificate or for any other reason.

EJ 6(6) EFFECT OF REVOCATION A revoked certificate is void from the time the certificate was issued.

EJ 6(6)

EJ 6(7) NOTICE OF REVOCATION TO COMMISSIONER The New Zealand Film Commission must give notice to the Commissioner immediately after revoking a provisional certificate or a final certificate.

Defined in this Act: Commissioner, completed, film, New Zealand, notice
Compare: 2004 No 35 s EJ 6

EJ 7 FILM PRODUCTION EXPENDITURE FOR NEW ZEALAND FILMS HAVING NO LARGE BUDGET FILM GRANT

EJ 7(1) NEW ZEALAND FILMS A deduction under section DS 2 (Film production expenditure) for film production expenditure is allocated under this section if—

- (a) the film is not one for which a large budget film grant is made; and
- (b) the film has a final certificate under section EJ 6.

EJ 7(2) TIMING OF DEDUCTION: UP TO COMPLETION OF FILM A deduction for film production expenditure incurred in or before the income year in which the film is completed is allocated to the income year in which the film is completed.

EJ 7(3) TIMING OF DEDUCTION: AFTER COMPLETION OF FILM A deduction for film production expenditure incurred after the film is completed is allocated to the income year in which it is incurred.

Defined in this Act: completed, deduction, film, film production expenditure, income year, large budget film grant, New Zealand

Compare: 2004 No 35 s EJ 7

EJ 8 FILM PRODUCTION EXPENDITURE FOR OTHER FILMS HAVING NO LARGE BUDGET FILM GRANT

EJ 8(1) FILMS OTHER THAN NEW ZEALAND FILMS A deduction under section DS 2 (Film production expenditure) for film production expenditure is allocated under this section if—

- (a) the film is not one for which a large budget screen grant is made; and
- (b) the film does not have a final certificate under section EJ 6.

EJ 8(2) TIMING OF DEDUCTION: UP TO COMPLETION OF FILM If the person has a film right at the end of the income year in which the film is completed, the deduction for film production expenditure incurred in or before the income year is allocated as follows:

- (a) to the income year in which the film is completed,—
 - (i) 50% of the deduction; or
 - (ii) if the film income derived in the income year is more than 50% of the deduction, the lesser of the amount of film income and the total amount of the deduction; and

(b) to the next income year, the remaining deduction.

EJ 8(3) TIMING OF DEDUCTION: AFTER COMPLETION OF FILM If the person has a film right in an income year after the film is completed, a deduction for film production expenditure incurred after the film is completed is allocated to the income year in which it is incurred.

EJ 6(7)

EJ 8(4) TIMING OF DEDUCTION: DISPOSAL OF FILM RIGHT If the person disposes of a film right in the income year in which the film is completed, and does not have a film right in the film at the end of the income year, the remaining deduction is allocated to the income year.

EJ 8(5) MEANING OF REMAINING DEDUCTION In this section, **remaining deduction** means, for an income year, the amount of the deduction for film production expenditure that has not been allocated to an earlier income year.

Defined in this Act: amount, completed, deduction, film, film income, film production expenditure, film right, income year, large budget film grant, New Zealand, remaining deduction

Compare: 2004 No 35 s EJ 8

EJ 9 AVOIDANCE ARRANGEMENTS

EJ 9 The allocation of a deduction under any of sections EJ 4, EJ 5, EJ 7, and EJ 8 may be subject to adjustment under—

- (a) section GB 18 (Arrangements to acquire film rights or incur production expenditure);
- (b) section GB 19 (When film production expenditure payments delayed or contingent).

Defined in this Act: deduction, film production expenditure, film right, pay

Compare: 2004 No 35 ss GC 11B, GD 12A, GD 12B

Leases

EJ 10 PERSONAL PROPERTY LEASE PAYMENTS

EJ 10(1) WHAT THIS SECTION APPLIES TO This section applies to a lease that—

- (a) is of a personal property lease asset; and
- (b) is not a finance lease; and
- (c) is not a specified lease.

EJ 10(2) PAYMENTS Personal property lease payments are treated as being paid for the term of the lease.

EJ 10(3) FORMULA The expenditure that the lessee incurs is allocated to income years using the formula—

$$\text{(part of term} \div \text{term of the lease)} \times \text{total of payments.}$$

EJ 10(4) DEFINITION OF ITEMS IN FORMULA In the formula,—

- (a) **part of term** is the part of the term of the lease that falls within the income year;
- (b) **term of the lease** has the meaning given in section YA 1 (Definitions);
- (c) **total of payments** is the total amount of the personal property lease payments.

Defined in this Act: finance lease, income year, lease, lessee, pay, personal property lease asset, personal property lease payment, specified lease, term of the lease

Compare: 2004 No 35 s EJ 9

EJ 13 PERMANENTLY CEASING PETROLEUM MINING OPERATIONS

EJ 13(1) WHEN THIS SECTION APPLIES This section applies when a petroleum miner and each farm-in party to a farm-out arrangement, if any, to which the petroleum miner is a party, permanently ceases petroleum mining operations—

- (a) in a permit area for which the petroleum miner holds a petroleum permit; and
- (b) for which petroleum development expenditure has been incurred.

EJ 13(2) AMOUNT OF DEDUCTION FOR PETROLEUM MINER The amount of the deduction that the petroleum miner is allowed is the difference between—

- (a) the amount of the deduction allowed for the petroleum miner under section DT 5 (Petroleum development expenditure) and attributable to—
 - (i) the permit; or
 - (ii) an asset of the kind described in section CT 7(1)(b) or (c) (Meaning of petroleum mining asset) held solely in connection with the permit; and
- (b) any part of the deduction for the petroleum miner allocated to, or treated as allocated to, earlier income years under section EJ 12(2) or EJ 12B(3).

EJ 13(3) AMOUNT OF DEDUCTION FOR FARM-IN PARTY The amount of the deduction that the farm-in party is allowed is the difference between—

- (a) the amount of the deduction allowed for the farm-in party under section DT 14 (Farm-out arrangements) for petroleum development expenditure, and attributable to—
 - (i) the permit; or
 - (ii) an asset of the kind described in section CT 7(1)(b) or (c) held solely in connection with the permit; and
- (b) any part of the deduction for the farm-in party allocated to, or treated as allocated to, earlier income years under section EJ 12(2) or EJ 12B(3).

EJ 13(4) TIMING OF DEDUCTION For the purposes of section DT 5(2)(c) (Petroleum development expenditure), the deduction is allocated to the income year in which petroleum mining operations permanently cease.

Defined in this Act: amount, deduction, farm-in party, farm-out arrangement, income year, permit area, petroleum development expenditure, petroleum miner, petroleum mining operations, petroleum permit

EJ 13B DRY WELL DRILLED

EJ 13B(1) WHEN THIS SECTION APPLIES This section applies when—

- (a) the petroleum miner has petroleum development expenditure for a well, the drilling of which stops in an income year, and, from the time of stopping, the well—
 - (i) will never produce petroleum in commercial quantities; and
 - (ii) is abandoned; and
- (b) part of a deduction under section DT 5 (Petroleum development expenditure) for the petroleum development expenditure described in paragraph (a) has not been allocated under section EJ 12 or EJ 12B.

EJ 13(1)

EJ 13B(2) ALLOCATION The part of the deduction described in subsection (1) is allocated to the income year.

Defined in this Act: amount, deduction, income year, petroleum development expenditure

EJ 13C WELL NOT PRODUCING

EJ 13C(1) WHEN THIS SECTION APPLIES This section applies when—

- (a) the petroleum miner has petroleum development expenditure for a well that, in an income year—
 - (i) stops producing petroleum in commercial quantities; and
 - (ii) is abandoned; and
- (b) the petroleum miner has elected to apply section EJ 12B for the petroleum development expenditure described in paragraph (a) before the start of the income year; and
- (c) part of a deduction under section DT 5 (Petroleum development expenditure) for the petroleum development expenditure described in paragraphs (a) and (b) has not been allocated under section EJ 12B.

EJ 13C(2) ALLOCATION The part of the deduction described in subsection (1) is allocated to the income year.

Defined in this Act: amount, deduction, income year, petroleum development expenditure

EJ 14 SPREADING DEDUCTION BACKWARDS (repealed)**EJ 15 DISPOSAL OF PETROLEUM MINING ASSET**

EJ 15(1) WHEN THIS SECTION APPLIES This section applies when a petroleum miner disposes of a petroleum mining asset.

EJ 15(2) AMOUNT, AND TIMING, OF DEDUCTION Part of a deduction under section DT 5 (Petroleum development expenditure) is allocated to the income year in which the miner disposes of the asset. The part is that to which both the following apply:

- (a) it is attributable to the asset; and
- (b) it has not been allocated under section EJ 12 or EJ 12B to the income year in which the miner disposes of the asset or to an earlier income year.

EJ 15(3) ALLOCATION TO MORE THAN 1 YEAR If the petroleum miner's income from disposing of the asset is derived in 2 or more income years,—

- (a) the amount of the deduction is allocated among the income years in which the miner derives the income; and
- (b) the amount allocated to each income year bears the same relation to the total amount of the deduction as the income that the miner derives in that income year bears to the total amount of income that the miner derives from the disposal.

EJ 15(4) RELATIONSHIP WITH SECTION EJ 16 This section is overridden by section EJ 16.

Defined in this Act: amount, deduction, dispose, income, income year, petroleum miner, petroleum mining asset

Compare: 2004 No 35 s EJ 13

EJ 16 DISPOSAL OF PETROLEUM MINING ASSET TO ASSOCIATE

EJ 16(1) WHEN THIS SECTION APPLIES This section applies when, in an income year, a petroleum miner disposes of a petroleum mining asset to—

- (a) a person associated with the miner;
- (b) a person who holds the asset for the miner;
- (c) a person who holds the asset for a person associated with the miner.

EJ 16(2) AMOUNT OF DEDUCTION The maximum amount that may be allocated under section EJ 15 to the income year is the amount that would be the net income of the petroleum miner in the income year if their only income were from the disposal.

Defined in this Act: amount, associated person, dispose, income, income year, net income, petroleum miner, petroleum mining asset

Compare: 2004 No 35 s EJ 14

EJ 17 PARTNERSHIP INTERESTS AND DISPOSAL OF PART OF ASSET

EJ 17 In sections EJ 12 to EJ 16, unless the context requires otherwise,—

- (a) a partner is treated as having a share or interest in a petroleum permit or other property of a partnership to the extent of their interest in the income of the partnership;
- (b) references to the disposal of an asset apply equally to the disposal of part of an asset.

Defined in this Act: dispose, income, petroleum permit

Compare: 2004 No 35 s EJ 15

EJ 18 PETROLEUM MINING OPERATIONS OUTSIDE NEW ZEALAND

EJ 18 Sections EJ 12 to EJ 17 and EJ 20 apply with any necessary modifications to a petroleum miner undertaking petroleum mining operations that are, or decommissioning that is,—

- (a) outside New Zealand and undertaken through a branch or a controlled foreign company; and
- (b) substantially the same as the petroleum mining activities governed by sections EJ 12 to EJ 17 and EJ 20.

Defined in this Act: controlled foreign company, decommissioning, New Zealand, petroleum miner, petroleum mining operations

Compare: 2004 No 35 s EJ 16

Definitions**EJ 19 MEANING OF OFFSHORE DEVELOPMENT** *(repealed)***EJ 20 MEANING OF PETROLEUM MINING DEVELOPMENT**

EJ 20(1) MEANING In sections EJ 12 and EJ 12B, **petroleum mining development** means a place where 1 or more of the activities described in subsection (2) is carried out.

EJ 16(1)

EJ 20(2) ACTIVITIES: INCLUSIONS The activities are those carried out in connection with—

- (a) developing a permit area for producing petroleum;
- (b) producing petroleum;
- (c) processing, storing, or transmitting petroleum before its dispatch to a buyer, consumer, processor, refinery, or user;
- (d) decommissioning.

EJ 20(3) ACTIVITIES: EXCLUSIONS The activities do not include further treatment to which all the following apply:

- (a) it occurs after the well stream has been separated and stabilised into crude oil, condensate, or natural gas; and
- (b) it is done—
 - (i) by liquefaction or compression; or
 - (ii) for the extraction of constituent products; or
 - (iii) for the production of derivative products; and
- (c) it is not treatment at the production facilities.

Defined in this Act: decommissioning, permit area, petroleum

Mineral mining**EJ 20B CERTAIN MINING EXPENDITURE SPREAD OVER ASSUMED LIFE OF MINE**

EJ 20B(1) WHEN THIS SECTION APPLIES This section applies for the purposes of section DU 6 (Deduction for certain mining expenditure spread over assumed life of mine) when a mineral miner—

- (a) incurs an amount of mining development expenditure or mining exploration expenditure as described in that section; and
- (b) starts to use the mining permit area to derive income; and
- (c) either does not meet the requirements to allow allocation of the expenditure under section EJ 20E or, if they do, they do not choose to allocate the expenditure under that section.

EJ 20B(2) SPREADING RULE The mineral miner is allowed a deduction for an income year that falls within the spreading period referred to in section EJ 20C calculated using the formula—

$$\text{rate} \times \text{value.}$$

EJ 20B(3) DEFINITION OF ITEMS IN FORMULA The items in the formula are defined in subsections (4) and (5).

- (a) after the person—
- (i) reaches any necessary agreement under subsection (2) with the Commissioner; and
 - (ii) notifies the Commissioner of the election when or before making a return based on the elected approach; and
 - (iii) is notified that the Commissioner accepts the election, if the Commissioner has previously notified the person under paragraph (d); and
- (b) before the person's return for an income year for which the person does not meet the requirements of subsection (1); and
- (c) before the person notifies the Commissioner, when or before making a return based on an approach other than the elected approach, that the election is revoked; and
- (d) before the person is notified that the Commissioner will not accept assessments based on the elected approach.

EJ 25(4) GROUNDS FOR COMMISSIONER'S REFUSAL The Commissioner may give to the person a notice referred to in subsection (3)(d), or may refuse to give to the person a notice referred to in subsection (3)(a)(iii), if the Commissioner considers that the person has, in making an assessment, departed significantly from an agreement with the Commissioner or from the requirements of the IFRS rules.

Defined in this Act: aircraft engine, Commissioner, deduction, finance lease, financial statements, IFRS, income year, lease, New Zealand resident, notice, notify, return

EJ 26 ALLOCATION OF EXPENDITURE ON AIRCRAFT ENGINE OVERHAULS: ELECTION BY OPERATOR OF SINGLE AIRCRAFT

EJ 26(1) ELECTION A person may elect to quantify and allocate under this section the amount of a deduction allowed by section DW 5 or DW 6 (which relate to the acquisition, overhaul, and leasing of aircraft engines) in relation to an aircraft and an income year if—

- (a) no more than 1 aircraft is operated in business by the person and persons who are associated with the person other than by blood relationship; and
- (b) no more than 1 aircraft is operated in a particular business by the person and a person who is associated with the person by blood relationship.

EJ 26(2) EXPENDITURE ON ACQUISITION AND OVERHAUL OF AIRCRAFT ENGINES A person who elects to rely on this subsection to the income year must—

- (a) allocate a deduction under section DW 5(2) to the income year of the aircraft engine overhaul to which the deduction relates; and
- (b) treat each aircraft engine as an unpriced aircraft engine for the purposes of section DW 5.

EJ 26(3) CURRENCY OF ELECTION An election under this section applies for each assessment that is made by the person—

- (a) after the person notifies the Commissioner of the election, when or before making a return based on the approach required by subsection (2); and

EJ 25(4)

- (b) before the person's return for the third consecutive income year in which the person does not meet the requirements of subsection (1); and
- (c) before the person notifies the Commissioner, when or before making a return based on an approach other than the elected approach, that the election is revoked.

Defined in this Act: aircraft engine, associated person, business, blood relationship, business, deduction, income year, notice, notify, return, unpriced aircraft engine

EJ 27 DISPOSAL OF AIRCRAFT ENGINE OR AIRCRAFT

EJ 27(1) WHEN THIS SECTION APPLIES This section applies when a person—

- (a) is allowed a deduction under section DW 5 or DZ 22 (which relate to deductions for expenditure on aircraft engine maintenance) in relation to an aircraft engine or an aircraft including an unpriced aircraft engine; and
- (b) disposes of the aircraft engine or aircraft.

EJ 27(2) ALLOCATION OF REMAINING DEDUCTIONS The person must allocate to the income year in which the disposal occurs the part of the deduction under section DW 5 or DZ 22 for the preceding acquisition or aircraft engine overhaul that is not allocated to an earlier income year.

EJ 27(3) ALLOCATION OF CONSIDERATION The person must allocate the consideration derived for the disposal between—

- (a) the aircraft engine or aircraft as an item of depreciable property; and
- (b) the unexpired portion of the scheduled overhaul period for the aircraft engine.

EJ 27(4) ALLOCATION OF CONSIDERATION BY AGREEMENT The allocation by the person under subsection (3) must be—

- (a) the apportionment agreed with the purchaser; or
- (b) a fair and reasonable apportionment, if there is no agreed apportionment under paragraph (a).

EJ 27(5) RECOVERY INCOME The person derives from the disposal an amount of income equal to—

- (a) the total amount of deductions under section DW 5 or DZ 22 allowed for the aircraft engine or aircraft and the latest scheduled overhaul period beginning before the disposal, if that amount is less than the amount described in paragraph (b); or
- (b) the amount of consideration allocated under subsection (3) to the unexpired portion of the scheduled overhaul period for the aircraft engine, if paragraph (a) does not apply.

EJ 27(6) SECTIONS CC 11 AND FA 9: CONSIDERATION PAID BY LESSEE FOR LEASE ASSET For the purposes of sections CC 11 and FA 9 (which relate to a lessee acquiring a lease asset when a lease ends), the amount of consideration paid by a lessee or an associated person of a lessee to acquire an aircraft engine or aircraft, after the term of a finance lease of the aircraft engine or aircraft, does not include the amount allocated under subsection (3) to the unexpired portion of the scheduled overhaul period for the aircraft engine or aircraft.

IC 4(2) EMPLOYEES' SHARE PURCHASE SCHEMES In subsection (1), company shares held by the trustee of, or by employees or former employees of the company as a consequence of the operation of, a share purchase scheme are disregarded to the extent to which they represent voting interests in the company that add up to no more than 3%, or, as applicable, market value interests in the company that add up to no more than 3%.

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

Compare: 2004 No 35 s IG 1(3)

Requirements and methods

IC 5 COMPANY B USING COMPANY A'S TAX LOSS

IC 5(1) REQUIREMENTS Company A may make a tax loss available to company B to subtract from its net income under section IA 3(2) (Using tax losses in tax year) only if—

- company A and company B have minimum common ownership for the relevant period as set out in sections IC 2(2) and IC 6; and
- company A meets the residence requirements of section IC 7; and
- company A has the required continuity of ownership under section IC 2(1) and, if it applies, section IC 10(2)(a); and
- the amount falls within the limits set by section IC 8(1) and (2); and
- the payment and notification requirements of section IC 9 are met.

IC 5(2) METHOD: ELECTION OR SUBVENTION PAYMENT Having met all the requirements set out in subsection (1), company A may—

- choose to make a tax loss that it has in a tax year available to company B to use in the tax year, notifying the Commissioner as described in section IC 9, or
- agree with company B that company B should bear the amount of company A's tax loss, or take a share in it, in return for a payment by company B to company A by the date set out in section IC 9; or
- apply both paragraphs (a) and (b) in relation to the tax loss.

IC 5(3) AMOUNTS USED IN TAX YEAR Company B must subtract the amount of the tax loss referred to in subsection (2)(a) or the payment referred to in subsection (2)(b), as applicable, from its net income for the tax year in relation to which company A makes the amount available or receives the payment.

IC 5(4) WHEN DECISIONS MADE If company A chooses to make the amount available to company B under subsection (2)(a), the decision is irrevocable.

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

IC 4(2)

IC 5(6) PART-YEAR TAX LOSSES Sections IP 4 and IP 5 (which relate to losses in part-years) modify this section for part-year calculations.

IC 5(7) TAX YEARS BEFORE 1981–82 AND BETWEEN 1981–82 AND 1991–92 Section IZ 7 (Grouping tax losses for tax years before 1981–82 and between 1981–82 and 1991–92) modifies the requirements of—

- subsection (1)(a) for a tax loss component that arises in tax years between 1981–82 and 1991–92; and
- subsection (1)(b) for a tax loss component that arises in tax years before the 1991–92 tax year; and
- subsection (1)(a) for a tax loss component that arises in tax years before the 1981–82 tax year.

Defined in this Act: amount, Commissioner, company, dividend, net income, notify, pay, tax loss, tax loss component, tax year

Compare: 2004 No 35 s IG 2(2)

IC 6 COMMON OWNERSHIP FOR PERIOD

IC 6(1) COMMONALITY PERIOD For the purposes of section IC 2(2) common ownership under section IC 3 must exist from the start of the income year in which company A has a tax loss component that is included in the tax loss to the end of the income year in which company B subtracts the amount of the tax loss component from its net income. In this Part, this length of time is called the **commonality period**.

IC 6(2) MULTIPLE NET LOSSES The requirement set out in subsection (1) applies to net losses as they arise in an income year on an individual basis.

IC 6(3) WHEN COMPANIES HAVE DIFFERENT BALANCE DATES If the balance dates of company A and company B are different, section IC 10(2)(b) applies to extend the commonality period.

IC 6(4) RELATIONSHIP WITH SECTION IZ 7 Section IZ 7(1) and (2) (Grouping tax losses for tax years before 1981–82 and between 1981–82 and 1991–92) overrides subsections (1) and (2).

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

Compare: 2004 No 35 ss IG 1(1), (2), IG 2(2)(c), (4)(d)(ii), (5)(c)(ii)

IC 7 RESIDENCE OF COMPANY A

IC 7(1) INCORPORATION OR CARRYING ON BUSINESS Company A, for the commonality period, must be either—

- incorporated in New Zealand; or
- carrying on a business in New Zealand through a fixed establishment in New Zealand.

IC 7(2) RESIDENCE IN NEW ZEALAND In addition to meeting the requirements of subsection (1), company A, for the commonality period, must not be a company resident in New Zealand that is—

- (a) treated under a double tax agreement, and for the purposes of the agreement, as not resident in New Zealand; or
- (b) liable by the law of another country or territory to income tax in that country or territory through domicile, residence, or place of incorporation.

IC 7(3) RELATIONSHIP WITH SECTION IZ 7 Section IZ 7(4) (Grouping tax losses for tax years before 1981–82 and between 1981–82 and 1991–92) overrides this section.

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

Compare: 2004 No 35 s IG 2(2)(d), (11)

IC 8 LIMITATIONS ON AMOUNTS USED

IC 8(1) LIMIT ON AMOUNTS A tax loss made available, or a payment made, under section IC 5(2) must be no more than the amount that would be company B's net income for the tax year in which it subtracts the amount of the tax loss.

IC 8(2) LIMIT FOR PAYMENTS An amount that company B agrees to pay company A under section IC 5(2)(b) must be no more than the amount of company A's tax loss.

IC 8(3) NO ACCOUNTING FOR AMOUNT BY COMPANIES Company A and company B must ignore this section in calculating their net incomes, but for the purposes of grouping tax losses, company B's net income is found after taking into account—

- (a) first, its own losses; and
- (b) secondly, a tax loss made available to company B by another company.

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

Compare: 2004 No 35 s IG 2(2)(f), (g)

IC 9 DATE FOR PAYMENT AND NOTICE TO COMMISSIONER

IC 9(1) LAST DATE FOR PAYMENT A payment under section IC 5(2)(b) must be made no later than the extended return date, or by a later date if the Commissioner allows.

IC 9(2) DATE AND METHOD FOR NOTIFYING COMMISSIONER Company A must notify the Commissioner of an election or payment under section IC 5(2) by the extended return date or, if applicable, a later date allowed by the Commissioner for the notice. The notification may be made in the company's annual return of income.

IC 9(3) EXTENDED RETURN DATE In subsections (1) and (2), **extended return date** means the 31 March that, for company A and the tax year in which the amount of the tax loss is subtracted, is the latest date to which the time for providing the return of income may be extended under section 37(5) of the Tax Administration Act 1994.

Defined in this Act: amount, Commissioner, company, extended return date, notice, notify, pay, return of income, tax loss, tax year

Compare: 2004 No 35 s IG 2(2)(g), (3)

IC 7(3)

IC 10 WHEN COMPANIES HAVE DIFFERENT BALANCE DATES

IC 10(1) WHEN THIS SECTION APPLIES This section applies in a tax year when company A and company B do not have the same balance date.

IC 10(2) EXTENSIONS FOR CONTINUITY AND COMMON OWNERSHIP If company B's income year ends after the last day of company A's income year, for section IC 5 to apply to a tax loss in a corresponding tax year,—

- (a) continuity of ownership in company A under section IC 2(1) must extend to the end of company B's income year; and
- (b) common ownership of company A and company B under section IC 3 or IC 4 must extend to the end of company B's income year.

IC 10(3) PART-YEAR TAX LOSSES This section applies for part-year calculations through section IP 2(2) (Group companies' common span).

Defined in this Act: company, income year, tax loss, tax year

Compare: 2004 No 35 s IG 2(2)(c), (e)

IC 11 REDUCTION OF AMOUNTS USED BY COMPANIES

IC 11(1) WHEN THIS SECTION APPLIES This section applies in a tax year if—

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

IC 11(2) REDUCED AMOUNTS The relevant companies must reduce the amounts they subtracted either in the way company A allocates under subsection (3) or, if no allocation is made, proportionately under subsection (4).

IC 11(3) COMPANY A'S ALLOCATION Company A may choose how the amount by which the total must be reduced is allocated between or among the companies. But if company A allocates an amount to a company that is no longer part of the group at the time of the allocation, and the amount is more than a proportionate amount, the allocation is disregarded. Subsection (6) sets out the notice requirements for this subsection.

IC 11(4) PROPORTIONATE AMOUNTS If company A does not allocate the amounts by which the total must be reduced, the amounts subtracted by the group companies are reduced in the same proportion as that by which the total amount was reduced in determining the actual total tax loss.

IC 11(5) SUBVENTION PAYMENTS If the reduction results in a payment under section IC 5(2)(b) being treated as a dividend, the dividend is reduced to the extent to which the payment is repaid by company A within the notification period referred to in subsection (6).

ID 2(3) SECOND USE If, after subsection (2) is applied, some of the loss balance remains, the company may choose to do 1 or more of the following:

- (a) subtract the remaining amount from its net income for the tax year;
- (b) make the remaining amount available to another consolidated group to subtract from its net income for the tax year;
- (c) make the remaining amount available under section IC 5 (Company B using company A's tax loss).

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

ID 2(5) RELATIONSHIP WITH SECTIONS IA 3, IA 4, IC 5, AND PROVISIONS IN THIS SUBPART This section overrides sections IA 3, IA 4, and IC 5 (which relate to the general use and grouping of tax losses). Sections ID 3 to ID 5 override this section.

Defined in this Act: amount, company, consolidated group, net income, loss balance, tax year
Compare: 2004 No 35 s IG 6(4), (6), (7)

ID 3 PRE-CONSOLIDATION LOSSES: USE BY GROUP COMPANIES

ID 3(1) WHEN THIS SECTION APPLIES This section applies in a tax year when—

- (a) a company (**company A**) that is part of a consolidated group has a loss balance to which section ID 2 applies; and
- (b) company A, in the continuity period relating to a tax loss component included in the loss balance, does not have the required common ownership under section IC 3 (Common ownership: group of companies) with 1 or more companies in the consolidated group.

ID 3(2) LIMIT ON AMOUNT AVAILABLE The amount made available under section ID 2(2) to the consolidated group is limited as follows:

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

ID 3(3) RELATIONSHIP WITH SECTION FM 3 In subsection (2), the calculation of the consolidated group's net income must be made in accordance with section FM 3 (Liability of consolidated groups and group companies).

ID 2(3)

ID 3(4) RELATIONSHIP WITH SECTION ID 2 This section overrides section ID 2.

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

Compare: 2004 No 35 s IG 6(6)

ID 4 PRE-CONSOLIDATION LOSSES ON ENTRY: PART-YEAR RULE

ID 4(1) WHEN THIS SECTION APPLIES This section applies if a company that is part of a consolidated group has a loss balance to which section ID 2 applies in a tax year when the company joins the consolidated group.

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

ID 4(3) FINANCIAL STATEMENTS The company may establish the amount to be made available by providing the Commissioner, at the time of providing the consolidated group's return of income, with adequate financial statements that—

- (a) relate to the part of the tax year when the company was part of the consolidated group; and
- (b) disclose the amount that would be the net income attributable to the part of the tax year when the company was part of the consolidated group, determined on a fair and reasonable basis of attribution.

ID 4(4) FORMULA The amount that may be made available under section ID 2(2) and referred to in subsection (2) is calculated using the formula—

unused amount – (part-year net income + part-year net loss).

ID 4(5) DEFINITION OF ITEMS IN FORMULA In the formula,—

- (a) **unused amount** is the loss balance carried forward from an earlier tax year or years that would be subtracted from the consolidated group's net income for the tax year in the absence of section ID 3 or this section;
- (b) **part-year net income** is the company's net income for the part of the tax year before the company joins the consolidated group;
- (c) **part-year net loss** is the amount of a pre-consolidation tax loss that must be subtracted under section ID 2 from the net income of another consolidated group of which the company was part in the tax year before joining the consolidated group referred to in subsection (1).

ID 4(6) RELATIONSHIP WITH SECTION ID 2 This section overrides section ID 2.

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

Compare: 2004 No 35 s IG 6(7)

subtraction from net income calculated for the part of the amalgamation tax year (the **post-amalgamation part year**) that corresponds to the part of the income year beginning from the date of amalgamation, if—

- section IA 5 allows the tax loss component to be carried forward from the pre-amalgamation part year to the post-amalgamation part year; and
- sections IC 2 and IC 5 would have allowed the tax loss component to be made available to an amalgamating company for subtraction from net income calculated for the pre-amalgamation part year; and
- for a tax loss component that is an attributed CFC net loss or a FIF net loss and is made available by the amalgamated company, the tax loss component is made available to a wholly-owned group of companies.

IE 3(4) TREATMENT OF PART YEARS The pre-amalgamation part year and the post-amalgamation part year are treated as separate tax years for the purposes of applying this section.

IE 3(5) RELATIONSHIP WITH SECTIONS IA 3, IA 4, AND IA 5 This section overrides sections IA 3 and IA 4 (which relate to the general use of tax losses) and IA 5.

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

IE 4 GROUP COMPANIES' TREATMENT OF TAX LOSSES ON AMALGAMATION

IE 4(1) WHEN THIS SECTION APPLIES This section applies on an amalgamation if a company that is part of a group of companies—

- meets the requirements of section IA 5 (Restrictions on companies' loss balances carried forward); and
- has a tax loss for part of a tax year before the date of amalgamation; and
- may use the tax loss under section IC 5, IQ 4, or IQ 5 (which relate to a company's use of another company's loss, including foreign losses).

IE 4(2) USE BY AMALGAMATED COMPANY The amount of the tax loss may be subtracted from the net income of the amalgamated company for the tax year only if both the company and the amalgamated company, and each company that before or during the amalgamation amalgamated with the amalgamated company, meet the requirements of subparts IA, IC, and IQ (which relate to the general loss rules and certain foreign losses) that allow companies to group tax losses.

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

Compare: 2004 No 35 s IG 9

IE 5 APPLYING THE CONTINUITY PROVISIONS WHEN COMPANIES AMALGAMATE

IE 5 The provisions of this Act apply as if the amalgamated company did not exist separately before amalgamation, and was instead the amalgamating companies with the same holders of shares and options over shares, each with the same number and class of shares and options over shares, as they held in the amalgamating company, to determine whether a tax loss or loss balance,—

IE 3(4)

- may be used or is carried forward under sections IA 3 and IA 4 (which relate to the general use of tax losses):
- may be subtracted from the net income of another company under section IC 5, IQ 4, or IQ 5 (which relate to a company's use of another company's loss, including foreign losses):
- in the case of a group company, may be subtracted from the net income of the amalgamated company under section IC 5, IQ 4, or IQ 5.

Defined in this Act: amalgamated company, amalgamating company, amalgamation, company, loss balance, net income, share, tax loss

Compare: 2004 No 35 ss IF 4, IG 8, IG 9

Subpart IP — Meeting requirements for part-years

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Introductory provisions

IP 1 WHEN THIS SUBPART APPLIES

IP 1(1) BREACHES OF CONTINUITY AND COMMONALITY This subpart applies if either or both the following breaches occur:

- when commonality of ownership required by section IC 5(1)(a) (Company B using company A's tax loss) is not met during a tax year (a **commonality breach**):
- when continuity of ownership required by section IA 5(1) (Restrictions on companies' loss balances carried forward) is broken during a tax year, or when a new or existing company joins a group of companies during a tax year (a **continuity breach**).

IP 1(2) RELATIONSHIP WITH SUBPARTS IA, IC, AND ID: PART-YEAR CALCULATIONS The general rules for the treatment of tax losses in subparts IA, IC, and ID (which relate to the general use and grouping of tax losses) apply, as modified or overridden by the provisions of this subpart, to—

IT 1(2) CANCELLATION OF LIFE INSURER'S POLICYHOLDER NET LOSSES
The cancelled amount—

- (a) is removed from the life insurer's available tax loss for the tax year, except as provided by section EY 5(2) (Part-year tax calculations) for the first part-year; and
- (b) must not be subtracted from the life insurer's net income under section BC 5 (Taxable income) for the tax year, except as provided by section EY 5(2) for the first part-year; and
- (c) is not a tax loss component on and after 1 July 2010; and
- (d) is cancelled on and after 1 July 2010.

Defined in this Act: available tax loss, income year, life insurer, net income, policyholder net loss, ring-fenced tax loss, tax loss, tax loss component, tax year

IT 2 CANCELLATION OF LIFE INSURER'S TAX LOSS WHEN ALLOWED INTO POLICYHOLDER BASE

IT 2(1) WHAT THIS SECTION APPLIES TO This section applies to the amount of a life insurer's tax loss to be carried forward to a tax year corresponding to an income year that includes 1 July 2010 and later tax years.

IT 2(2) CANCELLATION OF LIFE INSURER'S TAX LOSS When the life insurer has for an income year a policyholder base allowable deduction as provided by section EZ 61 (Allowance for cancelled amount: spreading), an equal amount—

- (a) is removed from the life insurer's available tax loss for the tax year corresponding to the income year; and
- (b) must not be subtracted from the life insurer's net income under section BC 5 for the tax year; and
- (c) is not a tax loss component; and
- (d) is cancelled.

Defined in this Act: available tax loss, income year, life insurer, net income, policyholder base allowable deduction, tax loss, tax loss component, tax year

Subpart IV — Treatment of certain supplementary dividends
(repealed) [not reproduced]

Subpart IW — Use of tax losses to pay shortfall penalties

Contents

IW 1 Shortfall penalties

IW 1 SHORTFALL PENALTIES

IW 1(1) WHEN THIS SECTION APPLIES This section applies in a tax year when a person has a shortfall penalty for an income tax liability.

IT 1(2)

IW 1(2) PERSONS CHOOSING TO USE TAX LOSSES If the person has a tax loss for the tax year, they may use the amount of the tax loss to pay the penalty, notifying the Commissioner by the due date for payment of the penalty.

IW 1(3) WHOLLY-OWNED GROUPS CHOOSING TO USE TAX LOSSES If a company that is part of a wholly-owned group of companies has a tax loss for a tax year, the wholly-owned group may use the amount of the tax loss to pay the penalty imposed on the company or on another company in the group, notifying the Commissioner by the due date for the payment of the penalty.

IW 1(4) TIME OF USE The tax loss is used at the time of notification.

IW 1(5) LOWEST MARGINAL TAX RATE AND AVAILABILITY Each dollar of an amount of tax loss that is used under this section—

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

IW 1(6) TAX YEARS AND PART-YEARS In this section, a **tax year** includes a part of a tax year that may be taken into account under this Part for continuity or grouping purposes.

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

Compare: 2004 No 35 s IG 10

Subpart IZ — Terminating provisions

Contents

IZ 1	Use of specified activity net losses <i>(repealed)</i>
IZ 2	Petroleum mining companies: treatment of payments from shareholders <i>(repealed)</i>
IZ 3	Petroleum mining companies: use of loss balances <i>(repealed)</i>
IZ 4	Tax losses for tax years before 1977–78 tax year
IZ 5	Companies' tax losses for tax years before 1991–92 tax year
IZ 6	Companies' tax losses for 1990–91 and 1991–92 tax years
IZ 7	Grouping tax losses for tax years before 1981–82 and between 1981–82 and 1991–92

IZ 1 USE OF SPECIFIED ACTIVITY NET LOSSES *(repealed)*

IZ 2 PETROLEUM MINING COMPANIES: TREATMENT OF PAYMENTS FROM SHAREHOLDERS *(repealed)*

IZ 3 PETROLEUM MINING COMPANIES: USE OF LOSS BALANCES *(repealed)*

6B DIRECTIONS TO COMMISSIONER

6B(1) [Directions to Commissioner issued by Order in Council] The Governor-General may by Order in Council, and with due regard to sections 6 and 6A of this Act and the provisions of the State Sector Act 1988 and the Public Finance Act 1989, issue directions to the Commissioner in relation to the administration of the Inland Revenue Acts.

6B(2) [Limitation on giving directions] Subsection (1) does not authorise the giving of directions concerning the tax affairs of individual taxpayers or the interpretation of tax law.

6B(3) [Publication] Every order made under subsection (1) shall as soon as practicable after it is made—

- (a) be published in the *Gazette*; and
- (b) be laid before the House of Representatives together with any accompanying statement of the reasons for the order and any advice of the Commissioner in relation to it.

6B(4) [Date order becomes binding on Commissioner] An order made under subsection (1) becomes binding on the Commissioner on the 7th day after the date on which it is made.

7 DELEGATION OF POWERS BY COMMISSIONER

7(1) [Delegations by Commissioner] The Commissioner may delegate in accordance with sections 41 and 42 of the State Sector Act 1988 any of the Commissioner's functions or powers under this Act or any other Act (including functions or powers delegated to the Commissioner under this Act or any other Act), except that—

- (a) the delegation of functions or powers delegated to the Commissioner by a Minister requires the prior written approval of that Minister; and
- (b) the delegation of functions or powers delegated to the Commissioner by the State Services Commissioner requires the prior written approval of the State Services Commissioner.

7(2) [Functions and powers that may not be delegated] However, the Commissioner may not delegate to a person outside the Public Service (as described in section 41(2A) of the State Sector Act 1988) any of the following functions or powers:

- (a) the Commissioner's functions or powers in relation to obtaining information from and about taxpayers (sections 16 to 21 of this Act); and
- (b) the Commissioner's functions or powers in relation to imposing civil and criminal penalties on taxpayers in various circumstances (Part 9 of this Act, subpart 3 of Part 4 of the Student Loan Scheme Act 2011, and Part 12 of the Child Support Act 1991); and
- (c) the Commissioner's functions or powers in relation to deducting amounts from payments due (section 157 of this Act, section 193 of the Student Loan Scheme Act 2011 but in respect only of the powers in section 157 of this Act, and section 154 of the Child Support Act 1991); and

(d) the Commissioner's functions or powers in relation to tax recovery agreements negotiated between the government of a territory outside New Zealand and the Government of New Zealand (Part 10A of this Act).

7(3) [Application of ss 41 and 42 of State Sector Act 1988] Sections 41 and 42 of the State Sector Act 1988 apply to delegations under this section as if those delegations were made under section 41(1) of that Act.

7A AUTHORISATION TO TAKE SECURITIES

7A(1) [Commissioner may accept securities] The Commissioner may—

- (a) accept securities to secure the performance of tax obligations; and
- (b) require that securities be given on such terms (including the manner of payment of any costs and disbursements associated with the security) as the Commissioner specifies; and
- (c) require that securities be transferred into the name of, and be held by, the Commissioner until the performance of a tax obligation or obligations; and
- (d) if the Commissioner considers that the existing securities are or may be or become inadequate or insufficient, call for additional or substitute securities; and
- (e) enforce a security if a taxpayer defaults in the performance of the tax obligation in respect of which the security was taken; and
- (f) grant discharges, releases, or transfers of securities on terms the Commissioner considers appropriate; and
- (g) recover from a taxpayer the costs of accepting, enforcing, discharging, releasing, or transferring any security.

7A(2) [Commissioner not liable for loss] The Commissioner is not to be liable for any loss suffered in relation to an asset or right that is the subject of a security, unless the Commissioner is guilty of wilful misconduct in dealing with the asset or right.

7A(3) [Commissioner deemed to be a corporation sole] For the purposes of this section, the Commissioner and the Commissioner's successors in office—

- (a) are deemed to be a corporation sole; and
- (b) as such corporation sole, are to have and may exercise all the rights, powers, and privileges, and may incur all the liabilities and obligations, of a natural person of full age and capacity.

7A(4) [Extent of Commissioner's rights] Nothing in subsection (1) limits—

- (a) any tax law which specifies the Commissioner's entitlement to a charge or other security; or
- (b) the Commissioner's rights under the terms of a document evidencing or constituting a security; or
- (c) the Commissioner's other rights to collect or recover tax or other amounts.

8 DEPUTY COMMISSIONERS OF INLAND REVENUE *(repealed)***9 REGIONAL CONTROLLERS OF INLAND REVENUE** *(repealed)***10 DISTRICT COMMISSIONERS OF INLAND REVENUE** *(repealed)***11 APPOINTMENT OF OTHER OFFICERS** *(repealed)***12 OFFICIAL SEAL**

12(1) [Official seal of department] There shall be an official seal of the Inland Revenue Department, which shall be in the custody of the Commissioner.

12(2) *(repealed)*

13 PROOF OF SIGNATURE OF COMMISSIONER

13(1) [Use of printed or electronic signatures] The printed or electronic signature of the Commissioner or an officer of the department may be used on any certificate, notice, or other document in relation to the exercise of the Commissioner's or officer's powers, duties, and functions under this or any other Act.

13(2) [Deemed duly signed] Any certificate, notice, or other document purporting to bear the written, printed, or electronic signature of the Commissioner or an officer of the department shall, until the contrary is proved, be deemed to have been duly signed by the person whose signature it purports to bear.

13(3) [Judicial notice] Judicial notice shall be taken of every such signature and of the fact that the person whose signature it purports to be holds or has held office as Commissioner or other relevant officer of the department, as the case may require.

13B USE OF ELECTRONIC SIGNATURES FOR TAX ADMINISTRATION PURPOSES

13B(1) [Information may be given under electronic signature] Subject to meeting the criteria and requirements set out in the guidelines referred to in subsection (2) and the provisions of Part 4 of the Contract and Commercial Law Act 2017, a person may give information to the Commissioner under an electronic signature.

13B(2) [Guidelines] The Commissioner must publish guidelines that set out the criteria and technical requirements for—

- (a) the use of a valid electronic signature on documents provided to the Commissioner;
- (b) the nature of, and circumstances in which, the Commissioner accepts information under an electronic signature.

13B(3) [Document treated as signed and complying] When the Commissioner receives a document bearing the electronic signature of a person, unless there are reasonable grounds to suppose otherwise,—

- (a) the document is treated as signed by the person; and
- (b) the person is treated as complying with both the guidelines referred to in subsection (2) and section 228 of the Contract and Commercial Law Act 2017.

14 MODES OF COMMUNICATION: GENERAL PROVISIONS

14(1) [Application and modes of communication for ss 14B to 14E] Sections 14B to 14E apply for the purposes of this Act, the Income Tax Act 2007, and the Goods and Services Tax Act 1985, unless the context requires otherwise, to set out what is meant when a person (**person A**) gives information to, or communicates with, another person (**person B**) by—

- (a) asking or requesting;
- (b) informing;
- (c) applying;
- (d) notifying;
- (e) formally notifying.

14(2) [Personal delivery, post, fax, or electronic means in ss 14F and 14G] Sections 14F and 14G set out the requirements for giving information or communicating by personal delivery, post, fax, or electronic means.

14(3) [Reasonable grounds to suppose electronic communication will be received] Despite sections 6, 14B(2)(c), and 14C(2)(a), and sections 220 and 224 of the Contract and Commercial Law Act 2017, when there are reasonable grounds to suppose an electronic communication will be received by a person, the consent of the person is not required in order for the Commissioner to communicate in electronic form.

14(4) [Application of ss 14C to 14G to other Acts] Despite subsection (1) and the references to this Act, the Income Tax Act 2007, and the Goods and Services Tax Act 1985, sections 14C to 14G apply when any other Act requires the Commissioner to give notice to a person, or a person to give notice to the Commissioner.

14B ASKING, REQUESTING, OR INFORMING

14B(1) [Asking, requesting or informing] This section applies when a provision in this Act, the Income Tax Act 2007, or the Goods and Services Tax Act 1985 refers to or describes person A—

- (a) asking person B for something;
- (b) requesting something from person B;
- (c) informing person B about something.

14B(2) [Modes of communication] Person A may communicate—

- (a) by telephone; or
- (b) orally in person in a manner acceptable to the Commissioner; or
- (c) by electronic means, if person A complies with the provisions of Part 4 of the Contract and Commercial Law Act 2017, for an item of information delivered in a way referred to in section 14F; or
- (d) in print and delivered in a way referred to in section 14F, whether the document is handwritten, typewritten, or otherwise visibly represented, and whether copied or reproduced on paper; or
- (e) in another manner permitted by the Commissioner.

14F(4) [Communication between persons, neither of whom is Commissioner] When the Commissioner is neither person A nor person B, person A may communicate with person B—

- (a) if person B is not a corporate body, by personal delivery to person B; or
- (b) if person B is a corporate body, by personal delivery to person B's office during working hours; or
- (c) by delivery to person B's contact address as described in section 14G.

14F(5) [With whom Commissioner may communicate] For the purposes of subsection (2), the Commissioner may communicate with—

- (a) the person; or
- (b) a representative authorised to act on behalf of the person in relation to the relevant matter.

14F(6) [Delivery by post] A communication by post is treated as having been given at the time the communication would have been delivered in the ordinary course of the post.

14F(7) [Time of receipt of electronic communication] Section 214 of the Contract and Commercial Law Act 2017 applies to determine the time of receipt of an electronic communication.

14F(8) [Fax numbers not delivery by electronic means] For the purposes of this section and section 14G, delivery by electronic means does not include a communication to a fax number.

14G CONTACT ADDRESSES

14G For the purposes of section 14F(2) and (4), a person's contact address may be 1 of the following:

- (a) for delivery by electronic means to a person who is not a corporate body,—
 - (i) an email or other electronic address that they have provided;
 - (ii) their last known email or other electronic address;
 - (iii) an email or other electronic address of the person that is otherwise available, if there are reasonable grounds to suppose that the person will receive the communication:
- (b) for delivery by electronic means to a person who is a corporate body,—
 - (i) an email or other electronic address of the corporate body provided by a person acting for or on behalf of the corporate body in relation to the relevant matter;
 - (ii) the last known email or other electronic address of a person acting for or on behalf of the corporate body in relation to the relevant matter;
 - (iii) an email or other electronic address of the corporate body that is otherwise available, if there are reasonable grounds to suppose that a person acting for or on behalf of the corporate body in relation to the relevant matter will receive the communication:
- (c) for delivery by post,—

- (i) the street address of their usual or last known place of residence; or
 - (ii) the street address of any of their usual or last known places of business; or
 - (iii) any other address of the person, if they have notified the Commissioner that they accept delivery at the address:
- (d) for delivery by fax, a fax number that has been provided or is otherwise available.

15 ANNUAL REPORT

15(1) [Furnishing report to Minister] The Commissioner shall, as soon as practicable after the close of each financial year, furnish to the Minister a report on the administration of the Inland Revenue Acts during the financial year.

15(2) [Report laid before Parliament] Every such report shall be laid before Parliament as soon as practicable after it has been received by the Minister.

Compare: 1974 No 133 s 22

- (i) the permit; and
- (ii) any asset of the kind described in section CT 7(1)(b) or (c) of the Income Tax Act 2007; or
- (c) whether, and if so when, a permit has been relinquished; or
- (d) the year or date of first commercial production for a permit area in which a petroleum miner holds an interest; or
- (e) whether any expenditure incurred before 16 December 1991 on an exploratory well contributed to defining the scope, character, or size of any deposit of petroleum; or
- (f) in the case where petroleum mining operations are carried on outside New Zealand, the foreign equivalent of—
 - (i) a prospecting permit; or
 - (ii) a mining permit; or
 - (iii) the extension of a mining permit; or
 - (iv) the relinquishment of a permit,—

that question shall be determined, for the purposes of ascertaining the income of the petroleum miner for any year,—

- (g) by agreement between the petroleum miner or petroleum miners affected and the Commissioner; or
- (h) in the absence of such agreement, by the Commissioner after consulting, if the Commissioner considers it necessary, with any organisation or person having relevant expertise or information.

91(1B) [Crown Minerals Act 1991] For the purposes of subsection (1)(f), the Crown Minerals Act 1991 is used to determine by analogy the equivalents in the context of the relevant foreign regime for the licensing and conduct of petroleum mining operations of—

- (a) obtaining a permit; or
- (b) determining whether or when a permit has been relinquished; or
- (c) interpreting other relevant documents or matters relating to the licensing and conduct of petroleum operations.

91(2) [Commissioner may make fresh determination] Where the Commissioner is satisfied that a determination made under this section should be varied or rescinded, or restricted or extended in scope, the Commissioner may make a fresh determination (whether by agreement with the petroleum miner or miners affected or by the Commissioner after such consultation, if any, as the Commissioner considers necessary) which shall be effective to vary, rescind, restrict, or extend the earlier determination.

91(3) [Terms and conditions, notice] Where the Commissioner makes a determination under subsection (1) or subsection (2),—

- (a) the determination shall be subject to such terms and conditions as are agreed or as the Commissioner may specify; and

- (b) the Commissioner shall give notice of the determination and any terms and conditions to the petroleum miner in respect of whom the determination is made within a reasonable period of time.

91(4) *(repealed)*

91(5) *(repealed)*

91(6) [Commissioner may consult other departments or bodies] For the purpose of determining any question under subsection (1) or subsection (2), the Commissioner may consult with the appropriate government department or other body, or with any other organisation or person having relevant expertise or information, and any government department or government body so consulted shall provide such assistance or advice as the Commissioner reasonably requires.

91(7) *(repealed)*

Compare: 1976 No 65 s 214L

91AA DETERMINATIONS IN RELATION TO STANDARD-COST HOUSEHOLD SERVICE

91AA(1) [Determination by Commissioner] For the purpose of the Inland Revenue Acts, the Commissioner may determine that a service is a standard-cost household service if—

- (a) the activity of providing the service is carried on by taxpayers who are natural persons; and
- (b) the activity of providing the service requires the use of each taxpayer's domestic accommodation in activities that commonly occur in a family household; and
- (c) the Commissioner considers that the determination would result in a significant reduction in compliance costs for providers of the service without inappropriate—
 - (i) risk to the revenue of the Crown;
 - (ii) demands on the resources of the Commissioner as a result of the administrative and enforcement duties that would be associated with the determination;
 - (iii) inaccuracy, for a significant number of providers, of any determination by the Commissioner of the costs of providing the service.

91AA(2) [Determination of income tax liability] For the purpose of calculating the income tax liability of natural persons who derive an amount in a tax year from a standard-cost household service, the Commissioner may determine for the tax year and the standard-cost household service—

- (a) requirements for the exemption under section CW 61 of the Income Tax Act 2007 of income that a taxpayer derives from providing the standard-cost household service;
- (b) a figure for a cost or costs that for the purpose of this Act may be treated as being incurred by a taxpayer in deriving exempt income from providing the standard-cost household service:

- (c) a method that a taxpayer may use to calculate a figure for a cost or costs that for the purpose of this Act may be treated as being incurred by a taxpayer in deriving exempt income from providing the standard-cost household service;
- (d) a figure for a cost or costs that for the purpose of this Act may be treated as being incurred by a taxpayer in deriving income from providing the standard-cost household service;
- (e) a method that a taxpayer may use to calculate a figure for a cost or costs that for the purpose of this Act may be treated as being incurred by the taxpayer in deriving income from providing the standard-cost household service;
- (f) requirements for the application of a determination under paragraphs (a) to (e).

91AA(3) [Election to use figure determined by Commissioner] A taxpayer who in a tax year derives an amount from providing a standard-cost household service may, in calculating the taxpayer's income tax liability for the tax year, elect to use a figure for a cost or costs or a method of calculating such a figure that the Commissioner has determined under subsection (2) to be appropriate for the taxpayer.

91AA(4) [Additional cost] A taxpayer who makes an election under subsection (3) to use a figure or method must not use, in calculating the taxpayer's income tax liability for the tax year, any figure for an additional cost of providing the standard-cost household service if the figure or method in the Commissioner's determination relates to a type of cost that includes the additional cost.

91AA(5) [Commissioner may make fresh determination] If the Commissioner is satisfied that a determination that is made under this section should be varied or rescinded, or restricted or extended in scope, the Commissioner may make a fresh determination that varies, rescinds, restricts or extends that determination.

91AA(6) [Notification of determination] A determination that is made by the Commissioner under this section must be published within 30 days of the making of the determination, in a publication chosen by the Commissioner.

91AA(7) [Application of determination] A determination that is made by the Commissioner under this section may apply for tax years that are specified in the determination.

91AAB DETERMINATIONS RELATING TO TYPES AND DIMINISHING VALUES OF LISTED HORTICULTURAL PLANTS

91AAB(1) [Commissioner may determine listed horticultural plants] For the purpose of sections DO 5 to DO 9 of the Income Tax Act 2007, the Commissioner may determine—

- (a) that a type of horticultural plant, tree, vine, bush, cane, or other similar plant that is cultivated on land, is a type of listed horticultural plant;
- (b) the banded rate set out in Schedule 12, column 1 of that Act that is to be used to calculate the diminishing value for a type of listed horticultural plant.

Sec 91AA(3)

91AAB(2) [Estimated useful life] In making a determination, the Commissioner must take into account the estimated useful life of the type of plant, and may also take into account—

- (a) the main purpose for which the type of plant is cultivated;
- (b) the manner in which the type of plant is cultivated and managed.

91AAB(3) [Application date of determination] The determination may set out the income year or income years for which it is to apply, but may not apply for income years before the 2003–04 income year.

91AAB(4) [Determination may extend, limit, vary, cancel or revoke earlier determination] The determination may provide for the extension, limitation, variation, cancellation or revocation of an earlier determination.

91AAB(5) [Dispute or challenge] A person affected by a determination made under this section may dispute or challenge the determination under Parts 4A and 8A.

91AAB(6) [Notification of determination] Within 30 days of issuing a determination under this section, the Commissioner must publish a notice in a publication chosen by the Commissioner that—

- (a) gives notice that the determination has been issued; and
- (b) states where copies of the determination can be obtained.

Determinations relating to prepayments

91AAC EXEMPTIONS FROM SECTION EA 3 OF INCOME TAX ACT 2007

91AAC(1) [Determination by Commissioner] For the purposes of section EA 3 of the Income Tax Act 2007, the Commissioner may determine whether and the extent to which a person is not required to comply with section EA 3 of the Act in relation to an unexpired portion of expenditure (except expenditure on employment income for services that have been performed), having regard to—

- (a) the nature and amount of the kinds of expenditure that the person regularly incurs;
- (b) the nature and size of the activity giving rise to the expenditure that the person incurs;
- (c) the costs of the person in complying with section EA 3 of the Act;
- (d) whether, for the person and the expenditure, the difference between expenditure incurred under section EA 3 of the Act and expenditure that would be allowed as a deduction if the Commissioner were to exercise the discretion under this section is not material.

91AAC(2) [Commissioner may cancel determination] The Commissioner may cancel a determination under this section at any time.

91AAC(3) [Class of persons] In this section, a reference to a **person** includes a class of persons.

Compare: 1994 No 164 s EF 1(3), (4)

Determinations relating to livestock

91AAD DETERMINATION ON METHODS FOR CALCULATING VALUE OF SPECIFIED LIVESTOCK UNDER NATIONAL STANDARD COST SCHEME

91AAD(1) [Determination under s EC 24 of Income Tax Act 2007] This section describes the matters that a determination under section EC 24 of the Income Tax Act 2007 may provide.

91AAD(2) [Methods for calculating average cost] The determination may provide 1 or more methods for calculating the average cost of each type, class, or age grouping of livestock that a person has on hand at the end of an income year, and for incorporating the costs for homebred livestock and purchased livestock in that average cost.

91AAD(3) [Age groupings of immature and mature livestock] The determination may provide for the age groupings of immature and mature livestock of each type to which the average costs apply.

91AAD(4) [Inventory control methods] The determination may provide 1 or more inventory control methods under which mature livestock must be accounted for, or the setting of minimum standards for an inventory control method.

91AAD(5) [Valuation methods] The determination may provide the way in which the determination applies when animals of the same type, class, or other category are valued both under section EC 22 of the Income Tax Act 2007 and under another valuation method. For the purposes of this section, the other valuation methods are market value, replacement price, and the high-priced livestock valuation method.

91AAD(6) [Conditions or limitations on valuation of livestock] The determination may provide for conditions or limitations on the valuation of livestock under section EC 22 of the Income Tax Act 2007, including—

- (a) a restriction on valuing livestock of a particular type, class, or other category under that section if livestock of the same type, class, or category are also valued under another valuation method; and
- (b) the setting of a notice requirement for elections of valuation method for livestock affected by a restriction imposed under paragraph (a).

91AAD(7) [Valuations where livestock previously valued using another method] The determination may provide for the valuation of livestock when livestock was previously valued using another valuation method.

91AAD(8) [Persons who may apply determination] The determination may provide for 1 or more classes of person by whom the determination may be applied, and for the income year or years for which it is to apply.

91AAD(9) [Extension, limitation, variation or revocation of earlier determination] The determination may provide for the extension, limitation, variation, or revocation of an earlier determination.

Compare: 1994 No 164 s EL 4(6)

Sec 91AAD(1)

91AAE PUBLICATION AND REVOCATION OF DETERMINATIONS RELATING TO LIVESTOCK

91AAE(1) [Notification of determination] A determination issued under any of sections EC 15, EC 23, and EC 24 of the Income Tax Act 2007 must be published no later than 30 days after it has been signed by the Commissioner, in a publication chosen by the Commissioner.

91AAE(2) [Application of substituted determination] If the Commissioner revokes a determination made under section EC 15, EC 23, or EC 24 of the Income Tax Act 2007, and substitutes a new determination, that new determination does not apply for an income year that ends on or before the day 30 days before the day on which the new determination is published.

Compare: 1994 No 164 ss EL 3A(2), (3), EL 4(7), (8), EL 8(2), (3)

Determinations relating to depreciation

91AAF DETERMINATION ON ECONOMIC RATE

91AAF(1) [Commissioner may set determination] Having followed the procedure in section EE 27, EE 28, EE 30, or EZ 23 of the Income Tax Act 2007, the Commissioner may set in a determination—

- (a) only the diminishing value rate for the kind of item; or
- (b) both the diminishing value rate and the straight-line rate for the kind of item.

91AAF(1B) [Default rate] For the purposes of subsection (1), the rate set by the Commissioner may be a default rate for kinds of items of depreciable property.

91AAF(2) [Application of economic rate to certain items] An economic rate set in a determination may be expressed to apply in any way, including—

- (a) to items of a kind, whenever they are acquired or used; or
- (b) to items of a kind, having regard to—
 - (i) the date on which, or income year in which, a particular person acquired or used such an item; or
 - (ii) the date on which, or income year in which, any person first acquired or used such an item; or
 - (iii) whether or not such an item has been used before in New Zealand or elsewhere or has been available for use before in New Zealand or elsewhere.

This subsection is overridden by subsection (3).

91AAF(3) [Non-application of economic rate to certain items of depreciable property] A determination setting an economic rate cannot be expressed to apply to an item of depreciable property that—

- (a) is already subject to a higher economic rate under an existing determination; and
- (b) is acquired—
 - (i) before the date on which the new determination is issued; or
 - (ii) after the date on which the new determination is issued, under a binding contract entered into before that date.

This subsection is overridden by subsection (4).

6 months of the Commissioner receiving the person's application for a special rate; or

- (c) the person has supplied insufficient information to enable the Commissioner to calculate an appropriate rate.

91AAH(3) [Circumstances where Commissioner may decline application for provisional rate] For the purposes of subsection (1)(b), the circumstances are as follows:

- (a) an economic rate, other than a default rate, already applies to the item; or
- (ab) if a default rate applies to the item, the difference between the default rate and the provisional rate would be less than 50% of the difference between the default rate and the next higher or lower rate, as applicable, in—
- (i) Schedule 11 of the Income Tax Act 2007, if the item is acquired on or after 1 April 2005; or
- (ii) Schedule 12 of that Act, if the item is acquired before 1 April 2005; or
- (b) the Commissioner is in the process of determining an economic rate applicable to the item for the income year to which the application relates and intends to set it within 6 months of the Commissioner receiving the person's application for a provisional rate; or
- (c) the person has supplied insufficient information to enable the Commissioner to calculate an appropriate rate.

Compare: 1994 No 164 s EG 10(4)

91AAI EFFECT ON SPECIAL RATE OF CHANGE IN CIRCUMSTANCES

91AAI(1) [When this section applies] This section applies when—

- (a) the Commissioner has issued a determination setting a special rate for a person's item of depreciable property; and
- (b) the circumstances that applied at the time the determination was issued—
- (i) no longer exist; or
- (ii) have changed materially.

91AAI(2) [Revocation of determination] The Commissioner may—

- (a) revoke the determination without issuing a new determination; or
- (b) revoke the determination and issue a new determination setting a new special rate for the item.

91AAI(3) [Depreciation rate where determination revoked] If the Commissioner revokes the determination without issuing a new determination, the person must depreciate the item applying the economic rate or an applicable provisional rate.

91AAI(4) [Effective date of revocation] A revocation takes effect—

- (a) if notice of the revocation is given to the person under section 91AAM(5), on the day after the date of the notice; or
- (b) if the notice is published in the *Gazette*, on the day after the date of the publication.

Compare: 1994 No 164 s EG 10(6), (7)

Sec 91AAH(3)

91AAJ DISPUTING OR CHALLENGING DETERMINATION

91AAJ(1) [Application] This section applies to—

- (a) a person who applied for a determination under section 91AAG; or
- (b) a person to whom a determination made under section 91AAG applies through the operation of section 91AAG(5)(b).

91AAJ(2) [Dispute or challenge] The person may dispute or challenge the determination under Parts 4A and 8A.

91AAJ(3) [Application of Part 8 — objections] Part 8, except section 125, applies with any necessary modifications to the dispute or challenge in the same manner and to the same extent as if the dispute or challenge were an objection made under section 126.

Compare: 1994 No 164 s EG 10(8), (9)

91AAK NOTICE OF SETTING OF ECONOMIC RATE

91AAK Within 30 days of issuing or revoking a determination under section 91AAF, the Commissioner must publish a notice in a publication chosen by the Commissioner that—

- (a) gives notice that the determination has been issued; and
- (b) states where copies of it can be obtained.

Compare: 1994 No 164 s EG 14(2)(b)

91AAL DETERMINATION ON MAXIMUM POOLING VALUE

91AAL(1) [Application for determination] A person may apply to the Commissioner for the issue of a determination allowing them a maximum pooling value for an item of depreciable property greater than that currently available to them.

91AAL(2) [Factors Commissioner must consider] When determining whether or not to grant an application, the Commissioner must have regard to the following factors:

- (a) whether or not items of the kind concerned are relatively homogeneous in nature;
- (b) whether or not the person's compliance costs are likely to be materially reduced by pooling items of the kind concerned;
- (c) the frequency with which the person acquires and disposes of items of the kind concerned.

91AAL(3) [Commissioner may issue determination on maximum pooling value] The Commissioner may issue the determination after having regard to the factors in subsection (2).

Compare: 1994 No 164 s EG 11(6), (7)

91AAM APPLICATIONS FOR DETERMINATIONS

91AAM(1) [Application for determination under s 91AAG] A person making an application for a determination under section 91AAG must make it in accordance with—

- (a) the procedures, if any, prescribed by regulations made under section 225; or
- (b) the procedures prescribed by the Commissioner, if the regulations do not provide for the person's case or if no regulations have been made.

Determinations relating to calculation of FIF income using fair dividend rate method

91AAO DETERMINATION ON TYPE OF INTEREST IN FIF AND USE OF FAIR DIVIDEND RATE METHOD

91AAO(1) [Determination by Commissioner] For the purposes of section EX 46 of the Income Tax Act 2007, the Commissioner may determine that a type of financial arrangement or excepted financial arrangement is—

- (a) a type of attributing interest in a FIF for which a person may use the fair dividend rate method to calculate FIF income from the interest; or
- (b) a type of attributing interest in a FIF for which a person may not use the fair dividend rate method to calculate FIF income from the interest.

91AAO(2) [What Commissioner may take into account] In making a determination, the Commissioner may take into account the following:

- (a) the principle that the fair dividend rate method should not be used for an attributing interest in a FIF that is economically equivalent to a loan denominated in New Zealand dollars;
- (b) the extent to which the assets of a FIF—
 - (i) are loans, fixed-rate foreign equity as defined in section YA 1 of the Income Tax Act 2007, or arrangements with a fixed economic return;
 - (ii) are denominated in New Zealand dollars;
 - (iii) have a value in New Zealand dollars that is substantially unaffected by variations in currency exchange rates;
- (c) the compliance costs incurred by a person required to use the fair dividend rate method;
- (d) arrangements affecting the assets of a FIF and interests held directly or indirectly in a FIF.

91AAO(3) [Determination may be for specified income years] A determination may be made for income years specified in the determination.

91AAO(3B) [Application before date of determination] A determination does not apply for a person and an income year beginning before the date of the determination unless the person chooses that the determination apply for the income year.

91AAO(3C) [Application of subsection (3D)] Subsection (3D) applies to a multi-rate PIE that calculates and pays its income tax liability under the quarterly calculation option as set out in section HM 43 of the Income Tax Act 2007.

91AAO(3D) [Application before date of determination] A determination does not apply for the multi-rate PIE for a quarter beginning before the date of the determination unless the PIE chooses that the determination apply for the quarter and all following quarters in the income year.

91AAO(4) [Determination may extend, limit, vary, cancel or revoke earlier determination] A determination may provide for the extension, limitation, variation, cancellation, or revocation of an earlier determination.

91AAO(5) [Notification and publication of determination] The Commissioner must:

- (a) notify the making of a determination within 30 days of the date of the determination, in a publication chosen by the Commissioner; and
- (b) publish the determination in a publication of the department as soon as possible.

Determinations relating to research and development tax credits (*repealed*)

91AAP DETERMINATIONS RELATING TO REQUIREMENTS FOR RESEARCH AND DEVELOPMENT TAX CREDITS (*repealed*)

Determinations relating to non-attributing active CFCs

91AAQ DETERMINATION ON INSURER AS NON-ATTRIBUTING ACTIVE CFC

91AAQ(1) [Application for determination] A person may apply to the Commissioner for a determination that, for the purposes of section EX 21B of the Income Tax Act 2007,—

- (a) a CFC is a non-attributing active CFC, if the CFC satisfies subsection (2); or
- (b) the members of a group of CFCs are non-attributing active CFCs, if the members satisfy subsection (3).

91AAQ(2) [Requirements for a CFC] A CFC satisfies this subsection if—

- (a) the CFC is controlled by a company resident in New Zealand that—
 - (i) has a business of insurance to which section 60(1) of the Insurance (Prudential Supervision) Act 2010 applies;
 - (ii) is in the same group of companies as a company resident in New Zealand that has a business of insurance to which section 60(1) of that Act applies; and
- (b) the CFC has, in a country or territory outside New Zealand, a business of insurance that is registered under the laws of the country or territory relating to the business of insurance; and
- (c) (*repealed*)

91AAQ(3) [Requirements for a group of CFCs] A group of CFCs satisfies this subsection if—

- (a) the group is a group of companies that—
 - (i) is controlled by a New Zealand resident; and
 - (ii) has, in a country or territory outside New Zealand, a business of insurance that is registered under the laws of the country or territory relating to the business of insurance; and
- (b) each CFC—

Determinations relating to family scheme income

91AAS DECLARATION OF EMERGENCY EVENT FOR PURPOSES OF FAMILY SCHEME INCOME

91AAS(1) [Determination of emergency event] The Commissioner may determine that an event is an emergency event, for the purposes of section MB 13(2)(r)(i) of the Income Tax Act 2007, if the event meets the requirements of paragraphs (a) and (b) of the definition of emergency in section 4 of the Civil Defence Emergency Management Act 2002.

91AAS(2) [Determination of period of event] The determination must set a period relating to the event, for the purposes of section MB 13(2)(r)(ii) of the Income Tax Act 2007, equal to or less than 12 months and beginning on the day of the event.

91AAS(3) [Period may not exceed 12 months] The determination may provide for the extension, limitation, variation, cancellation, or repeal of an earlier determination, except that the total period relating to an event may not exceed 12 months.

91AAS(4) [Publication of new or changed determination] As soon as possible after issuing or changing a determination under this section, the Commissioner must publish the new or changed determination in a publication chosen by the Commissioner.

Determinations relating to certain employment expenditure

91AAT DETERMINATIONS RELATING TO CERTAIN EMPLOYMENT EXPENDITURE

91AAT(1) [Exempt income] The Commissioner may determine the extent to which, on average, an amount that an employer pays in connection with an employee's employment or service as described in section CW 17(2C) and (3) of the Income Tax Act 2007 is exempt income of a member of the relevant group or class of employees to which the employee belongs.

91AAT(2) [Taxable amount] For the purposes of subsection (1), the Commissioner may set a percentage that represents the extent to which the payment for a particular type of expense is taxable, and may do so by making a reasonable estimate of the amount that is taxable. This subsection does not apply to expenditure incurred under sections CW 16B to CW 16F, CW 17B, CW 17C, CW 17CB, CW 17CC, and CW 18 of that Act.

91AAT(3) [Income years for which determination applies] The determination may set out the income year or income years for which it is to apply, but may not apply for income years before the 2014–15 income year.

91AAT(4) [Determination not binding] A determination made under this section is not binding on the employer or the employee.

91AAT(5) [What Commissioner must consider when making] In making the determination, the Commissioner must have regard to the size of the group or class of employees and the generality of the issue.

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91AAT(6) [Changes to determinations] The determination may provide for the extension, limitation, variation, cancellation, or revocation of an earlier determination. The Commissioner must give at least 30 days notice of the implementation date of any change to the determination.

91AAT(7) [Notification of change must be published] Within 30 days of issuing or changing a determination under this section, the Commissioner must publish a notice in a publication chosen by the Commissioner that—

- (a) gives notice that the determination has been issued or changed, as applicable; and
- (b) states where copies of the determination can be obtained.

Determinations relating to foreign account information-sharing agreements

91AAU PARTICIPATING JURISDICTIONS FOR CRS APPLIED STANDARD

91AAU(1) [Determination that territory is a participating jurisdiction] The Commissioner may determine that a territory outside New Zealand is a participating jurisdiction for the purposes of the CRS applied standard and Part 11B.

91AAU(2) [Period for which determination may apply] The determination may set out the period for which it is to apply, which must not begin before the latest reporting period that finishes before the determination is made.

91AAU(3) [What determination may provide] A determination may provide for the change, extension, limitation, suspension, or cancellation of an earlier determination.

91AAU(4) [Publication of determination and details of change, etc within 30 days] Within 30 days of issuing, changing, extending, limiting, suspending, or cancelling a determination under this section, the Commissioner must publish in a publication chosen by the Commissioner—

- (a) the determination;
- (b) details of a changed, extended, limited, suspended, or cancelled determination.

91AAV SUSPENSION OF REPORTABLE JURISDICTIONS FOR CRS APPLIED STANDARD

91AAV(1) [Determination that territory is not a reportable jurisdiction] The Commissioner may determine, for a territory outside New Zealand that has been provided by an Order in Council to be a reportable jurisdiction for the purposes of the CRS applied standard and requirements imposed by Part 11B, that the territory is not to be treated as a reportable jurisdiction.

91AAV(2) [Period for which determination may apply] The determination must set out the period for which it is to apply, which must not begin before the latest reporting period that finishes before the determination is made and must end no more than 3 months after the date of the determination.

91AAV(3) [Publication of determination within 30 days] Within 30 days of issuing a determination under this section, the Commissioner must publish the determination in a publication chosen by the Commissioner.

Income Tax Act 2007 applies, or would apply, to the person applying for the ruling and to the arrangement, whether a single or a recurring arrangement, for which the ruling is sought.

91E(5) [Arrangement entered into before date of receipt of application] The Commissioner may not, before 1 April 1996 or such other date as may be specified by the Governor-General by Order in Council for the purposes of this subsection, make a private ruling on an arrangement if that arrangement was entered into before the date on which the Commissioner received the application for the ruling.

91E(6) (*repealed*)

91EA EFFECT OF A PRIVATE RULING

91EA(1) [Application of taxation law in accordance with ruling] Notwithstanding anything in any other Act, if—

- (a) a private ruling on a taxation law applies to a person in relation to an arrangement and a tax type for an arrangement; and
 - (b) the person applies the taxation law for the tax type in the way stated in the ruling,—
- the Commissioner must apply the taxation law in relation to the person, the tax type, and the arrangement in accordance with the ruling.

91EA(1A) [Non-application of s 91EA(1)] Subsection (1) does not apply if a taxpayer has issued the Commissioner with a notice of proposed adjustment to change the effect of a ruling previously applied by the taxpayer.

91EA(2) (*repealed*)

91EB APPLICATION OF A PRIVATE RULING

91EB(1) [Application of private ruling] A private ruling on a taxation law for a tax type applies to a person in relation to an arrangement—

- (a) only if the taxation law is expressly referred to in the ruling; and
- (b) only for the period or tax year for which the ruling applies.

91EB(2) [Non-application of private ruling] A private ruling does not apply to a person in relation to a tax type for an arrangement, to the extent to which, in relation to the tax type—

- (a) the arrangement is materially different from the arrangement identified in the ruling; or
- (b) there was a material omission or misrepresentation in, or in connection with, the application for the ruling; or
- (c) the private ruling states an assumption that the Commissioner made about a future event or other matter, and the assumption subsequently proves to be materially incorrect; or
- (d) the Commissioner stipulates a condition that is not satisfied.

91EC APPLYING FOR A PRIVATE RULING

91EC(1) [Application for private ruling] A person, in their own right or on behalf of a person who is yet to come into legal existence, may apply to the Commissioner for a private ruling on how a taxation law applies, or would apply, to—

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- (a) the person making the application or the prospective person, as the case may be; and
- (b) an arrangement, whether a single or a recurring arrangement.

91EC(2) [Joint application] Two or more persons may jointly apply, or a person on behalf of two or more persons who are yet to come into legal existence, may apply to the Commissioner for a private ruling on how a taxation law applies, or would apply, to each person and to an arrangement, whether a single or a recurring arrangement.

91EC(3) [Application form and disclosure requirements] An application for a private ruling—

- (a) must be made in the form prescribed by the Commissioner; and
- (b) must comply with the disclosure requirements of section 91ED.

91EC(4) [Withdrawal of application] An applicant for a private ruling may at any time withdraw the application by notice to the Commissioner.

91EC(5) [Withdrawal of joint application] The withdrawal of an application by a joint applicant for a private ruling shall not be treated as withdrawing the application of the other party or parties to the application unless the Commissioner considers that the withdrawal—

- (a) materially affects the arrangement identified in the application; or
- (b) results in insufficient information in relation to the application being provided to the Commissioner.

91ED DISCLOSURE REQUIREMENTS

91ED(1) [Disclosure requirements] An application for a private ruling must—

- (a) identify the applicant; and
- (b) disclose all relevant facts and documents relating to the arrangement for which the ruling is sought; and
- (c) state the taxation laws in respect of which the ruling is sought; and
- (d) state the propositions of law (if any) which are relevant to the issues raised in the application; and
- (e) provide a draft ruling.

91ED(1B) [Applications in respect of ss GC 6, GC 14 and YD 5] In the case of an application for a private ruling that relates to how either sections GC 6 to GC 14 or YD 5 of the Income Tax Act 2007 applies, or would apply, the applicant must state in a notice, signed by them and sent to the Commissioner at the same time as the application described in subsection (1), that—

- (a) they have examined the application; and
- (b) to the best of their knowledge and belief, the information disclosed for the application is comprehensive.

91ED(2) [Waiver of requirements] If the Commissioner considers that it would be unreasonable to require the applicant to comply with any of the requirements in paragraphs (c) to (e) of subsection (1), the Commissioner may waive those requirements.

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