

**Reprint**  
**as at 1 January 2009**

**Goods and Services Tax Act 1985**

Public Act 1985 No 141  
Date of assent 3 December 1985

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**Note**

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this eprint.

A general outline of these changes is set out in the notes at the end of this eprint, together with other explanatory material about this eprint.

**This Act is administered in the Inland Revenue Department.**

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**An Act to make provision for the imposition and collection of goods and services tax**

**BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:**

**1 Short Title, etc**

- (1) This Act may be cited as the Goods and Services Tax Act 1985.
- (2) This Act, other than section 12, is hereby declared to be one of the Inland Revenue Acts within the meaning of the Tax Administration Act 1994.
- (3) Section 12 of this Act shall be deemed to be part of the Customs and Excise Act 1996.

Subsection (2) was substituted, as from 1 April 1995, by section YB 1 Income Tax Act 1994 (1994 No 164).

Subsection (2) was amended, as from 1 October 1996, by section 51 Taxation (Remedial Provisions) Act 1998 (1998 No 7) by substituting the expression “section 12” for the expression “sections 12 and 13”.

Subsection (3) was amended, as from 1 April 1993, by section 2 Goods and Services Tax Amendment Act 1993 (1993 No 10) by inserting the words “, and also section 42 of this Act in so far as it applies to the Comptroller of Customs,”.

Subsection (3) was substituted, as from 1 October 1996, by section 289(1) Customs and Excise Act 1996 (1996 No 27).

**Part 1  
Interpretation**

**2 Interpretation**

- (1) In this Act, other than in section 12, unless the context otherwise requires,—

**Additional tax***[Repealed]*

Additional tax: this definition was repealed by section 2(1) Goods and Services Tax Amendment Act 1996 (1996 No 59), with application to tax obligations, liabilities, and rights that are to be performed under or arise in relation to supplies made in respect of taxable periods commencing as from 1 April 1997. *See* section 1(3) of that Act as to the application of this amendment in relation to other provisions of this Act.

*[Repealed]*

**Associated persons***[Repealed]*

Associated persons: this definition was amended, as from 22 March 1989, by section 2(1) Goods and Services Tax Amendment Act 1989 (1989 No 8) by substituting the words “and includes— ... with the company” for the words “and includes any 2 persons, one of whom is a trustee for the other, and any 2 persons who are defined as relatives in section 2 of that Act”. The proviso to this definition was inserted, as from 3 December 1985, by section 2(1) Goods and Services Tax Amendment Act 1986 (1986 No 43).

Associated persons: this definition was amended, as from 1 July 1994, by section 2(a) Goods and Services Tax Amendment Act 1994 (1994 No 77) by omitting the words “or more”.

Associated persons: this definition was amended, as from 1 April 1995, by section YB 1 Income Tax Act 1994 (1994 No 164) by substituting the words “section OD 8(4) of the Income Tax Act 1994” for the words “section 67 of the Income Tax Act 1976”.

Associated persons: this definition was amended, as from 1 April 1995, by section YB 1 Income Tax Act 1994 (1994 No 164) by substituting the words “paragraph (a) of the definition of that term in section OB 1 of the Income Tax Act 1994” for the words “section 2 of the Income Tax Act 1976”.

Associated persons: this definition was amended, as from 1 April 1995, by section YB 1 Income Tax Act 1994 (1994 No 164) by substituting from the proviso the words “section OD 8(4) of the Income Tax Act 1994” for the words “section 67(2) of the Income Tax Act 1994”.

Associated persons: paragraph (a) of this definition was substituted, by section 3 Goods and Services Tax Amendment Act (No 2) 1995 (1995 No 75) with application to supplies made as from 17 August 1995.

Associated persons: this definition was repealed by section 82(3) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39) with application on 1 October 2000. Despite the application date it appears that this repeal was intended to apply on and after 10 October 2000.

*[Repealed]*

**associated supply** means—

- (a) a supply for which the supplier and recipient are associated persons:
- (b) a supply of a right, under an equity security or participatory security, to receive for no consideration, or consideration at other than the open market value, a supply of goods and services that is—
  - (i) not an exempt supply; and
  - (ii) not a supply relating to the control of the issuer of the equity security or participatory security

associated supply: this definition was inserted, as from 3 April 2006, by section 283(2) Taxation (Depreciation, Payment Dates Alignment, FBT, and Miscellaneous Provisions) Act 2006 (2006 No 3).

**balance date** is defined in section 15B for the purposes of that section

**Challenge** means—

- (a) To commence proceedings under Part 8A of the Tax Administration Act 1994 challenging a disputable decision (as defined in section 3(1) of that Act); or
- (b) The proceedings,—  
as the context requires; and any variant of the word **challenge** is to have a like meaning

Challenge: this definition was inserted, as from 1 October 1996, by section 2(2) Goods and Services Tax Amendment Act 1996 (1996 No 59). See section 1(3) of that Act as to the application of this amendment in relation to other provisions of this Act.

**Commercial dwelling** means—

- (a) Any hotel, motel, inn, hostel, or boardinghouse; or
- (b) Any camping ground; or
- (c) Any convalescent home, nursing home, rest home, or hospice; or
- (d) Any establishment similar to any of the kinds referred to in paragraphs (a) to (c) of this definition;—  
but does not include—
- (e) A hospital except to the extent that that hospital is a residential establishment:
- (f) A dwelling situated within a retirement village or within a rest home, where the consideration paid or payable for the supply of accommodation in that dwelling is for the right to occupy that dwelling:

Commercial dwelling: paragraph (c) of this definition was amended by section 2(2) Goods and Services Tax Amendment Act 1986 (1986 No 43) by omitting the word “hospital”.

Commercial dwelling paragraph (d) was substituted by section 2(8) Goods and Services Tax Amendment Act 1986 (1986 No 43).

Commercial dwelling: paragraph (d) of this definition was amended, by section 2(1) Goods and Services Tax Amendment Act 1990 (1990 No 64), by substituting the word “include—”, and paragraphs (e) and (f), for the words “include a hospital except to the extent that that hospital is a residential establishment:”.

**Commissioner** means the **Commissioner of Inland Revenue** as defined in the Tax Administration Act 1994

Commissioner: this definition was amended, as from 1 April 1995, by section YB 1 Income Tax Act 1994 (1994 No 164) by substituting the words “Tax Administration Act 1994” for the words “Inland Revenue Department Act 1974”.

Commissioner: this definition was amended, as from 1 April 1995, by section 51(1) Taxation (Remedial Provisions) Act 1996 (1996 No 159) by repealing the words “and District Commissioner means a District Commissioner of Inland Revenue as defined in that Act”.

**Company** means any body corporate, whether incorporated in New Zealand or elsewhere, and any limited partnership registered under the Limited Partnerships Act 2008; but does not include a local authority or a public authority

**Consideration**, in relation to the supply of goods and services to any person, includes any payment made or any act or forbearance, whether or not voluntary, in respect of, in response to, or for the inducement of, the supply of any goods and services, whether by that person or by any other person; but does not include any payment made by any person as an unconditional gift to any non-profit body

Consideration: this definition was amended, as from 3 December 1985, by section 2(4) Goods and Services Tax Amendment Act 1986 (1986 No 43) by adding the words “; but does not include ... non-profit body”. The words “, otherwise than in the course of making taxable demands” were omitted by section 2(1) Goods and Services Tax Amendment Act (No 3) 1988 (1988 No 125).

**Consideration in money** includes consideration expressed as an amount of money

**content** means the signals, writing, images, sounds or information of any kind that are transmitted, emitted or received by a telecommunications service.

content: this definition was inserted, as from 1 July 2003, by section 152(2) Taxation (Maori Organisations, Taxpayer Compliance and Miscellaneous Provisions) Act 2003 (2003 No 5).

**Credit note** means a document provided pursuant to section 25(3)(a) of this Act, and includes a document deemed to be a credit note under section 25(3A) of this Act

Credit note: inserted, as from 13 March 1992, by section 2 Goods and Services Tax Amendment Act 1992 (1992 No 2).

**Dealer in fine metal** means any person who satisfies the Commissioner that a principal part of that person’s business is the regular purchase and supply, for use as an investment item, of any fine metal

Dealer in fine metal: this definition was inserted, as from 3 December 1992, by section 2(9) Goods and Services Tax Amendment Act 1986 (1986 No 43).

**Debit note** means a document provided pursuant to section 25(3)(b) of this Act, and includes a document deemed to be a debit note under section 25(3A) of this Act

Debit note: this definition was inserted, as from 13 March 1992, by section 2 Goods and Services Tax Amendment Act 1992 (1992 No 2).

**Document** includes any electronic data, computer programmes, computer tapes, and computer discs

**Domestic goods and services** means the right to occupy the whole or part of any commercial dwelling, including, where it is provided as part of the right to so occupy, the supply of—

- (a) Cleaning and maintenance:
- (b) Electricity, gas, air-conditioning, or heating:
- (c) Telephone, television, radio, or any other similar chattel:

**Donated goods and services** means goods and services which are gifted to a non-profit body and are intended for use in the carrying on or carrying out of the purposes of that non-profit body

**Due date**, in relation to the payment of tax by a registered person, means the last day for payment determined by either section 19C(1) or 23(1) for that registered person

Due date: the expression “section 19C(1)” was substituted, as from 31 March 1991, for the expression “section 19(6)” by section 2(1) of the Goods and Services Tax Amendment Act 1991 (1991 No 11).

Due date: this definition was substituted by section 82(4) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39) with application as from 10 October 2000.

**Dwelling** means any building, premises, structure, or other place, or any part thereof, used predominantly as a place of residence or abode of any individual, together with any appurtenances belonging thereto and enjoyed with it; but does not include a commercial dwelling

**emissions unit** means—

- (a) a New Zealand unit:
- (b) a Kyoto unit as defined in section 4(1) of the Climate Change Response Act 2002:
- (c) an approved overseas unit as defined in section 4(1) of the Climate Change Response Act 2002

**Exempt supply** means a supply that is exempt from tax pursuant to section 14 of this Act

**Fine metal** means—

- (a) Gold, in any form, being gold of a fineness of not less than 99.5 percent:
- (b) Silver, in any form, being silver of a fineness of not less than 99.9 percent:
- (c) Platinum, in any form, being platinum of a fineness of not less than 99.0 percent:
- (d) Any other substance that the Governor-General may, from time to time, by Order in Council, declare to be fine metal for the purposes of this definition:

Fine metal: this definition was inserted, as from 3 December 1985, by section 2(9) Goods and Services Tax Amendment Act 1986 (1986 No 43).

**Going concern**, in relation to a supplier and a recipient, means the situation where—

- (a) There is a supply of a taxable activity, or of a part of a taxable activity where that part is capable of separate operation; and
- (b) All of the goods and services that are necessary for the continued operation of that taxable activity or that part of a taxable activity are supplied to the recipient; and
- (c) The supplier carries on, or is to carry on, that taxable activity or that part of a taxable activity up to the time of its transfer to the recipient:

Going concern: this definition was inserted by section 2(1) Goods and Services Tax Amendment Act 1995 (1995 No 22) with application in respect of supplies made pursuant to a contract or agreement entered into on or after 10 April 1995.

**Goods** means all kinds of personal or real property; but does not include choses in action, money or a product that is transmitted by a non-resident to a resident by means of a wire, cable, radio, optical or other electromagnetic system or by means of a similar technical system

Goods: this definition was amended, as from 1 January 2005, by section 140(2) Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 by substituting the words “, money or a product that is transmitted by a non-resident to a resident by means of a wire, cable, radio, optical or other electromagnetic system or by means of a similar technical system” for the words “or money” See clause 2 Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act Commencement Order 2004 (SR 2004/226).

**Hire**, in relation to goods, includes a letting on any terms, including a lease

**hire purchase agreement** has the same meaning as in section YA 1 of the Income Tax Act 2007; but includes an agreement that would be a hire purchase agreement but for the exclusion in paragraph (f) of the definition of that term in that section

**hospital**—

- (a) means an institution—
  - (i) that is a hospital care institution within the meaning of section 58(4) of the Health and Disability Services (Safety) Act 2001; or
  - (ii) whose principal purpose is to receive and treat people needing medical treatment or suffering from a disease; and
- (b) includes all clinics, dispensaries, offices, outpatient departments, services, and undertakings, maintained in connection with, or incidental to, such an institution

Hospital: this definition was inserted, as from 3 December 1985, by section 2(9) Goods and Services Tax Amendment Act 1986 (1986 No 43).

Hospital: this definition was substituted, as from 1 October 2002, by section 58(1) Health and Disability Services (Safety) Act 2001 (2001 No 93). *See* section 11 of that Act for transitional provisions.

**income year** means an income year as defined in section YA 1 of the Income Tax Act 2007

**Input tax***[Repealed]*

Input tax: paragraph (b) was substituted, as from 1 October 1996, by section 289(1) Customs and Excise Act 1996 (1996 No 27)

Input tax: paragraph (c) of this definition was amended, as from 23 March 1989, by section 14 Finance Act 1989 (1989 No 13) by inserting the words “(being the tax ... of this Act)”.

Input tax: paragraph (c) of this definition was amended, as from 22 March 1989, by section 2(2) Goods and Services Tax Amendment Act 1989 (1989 No 8) by substituting the words “being a supply by way of sale that is not a taxable supply” for the words “not being a taxable supply”

Input tax: the proviso was inserted, as from 3 December 1985, by section 2(5) Goods and Services Tax Amendment Act 1986 (1986 No 43).

Input tax: the proviso was amended, as from 22 March 1989, by section 2(3) Goods and Services Tax Amendment Act 1989 (1989 No 8) by inserting the words “or the supply ... consideration relates,”.

Input tax: paragraph (c) was amended, as from 12 December 1995, by section 2(2) Goods and Services Tax Amendment Act (No 2) 1995 (1995 No 75) by substituting the words “secondhand goods situated in New Zealand, not being goods that are supplied by a supplier who—” for the words “secondhand goods situated in New Zealand”, and inserting subparagraphs (i) and (ii). See section 2(4) and (5) of that Act as to the application provisions.

Input tax: paragraph (c)(i) of this definition was amended, as from 1 October 1996, by section 52 Taxation (Remedial Provisions) Act 1998 (1996 No 27) by substituting the words “Customs and Excise Act 1996” for the words “Customs Act 1966”.

*[Repealed]*

**Insurance** means insurance or guarantee against loss, damage, injury, or risk of any kind whatever, whether pursuant to any contract or any enactment; and includes reinsurance; and **contract of insurance** includes a policy of insurance, an insurance cover, and a renewal of a contract of insurance

Provided that nothing in this definition shall apply to any insurance specified in section 3 of this Act:

**Invoice** means a document notifying an obligation to make payment

**Late payment penalty** has the meaning given to it in section 3(1) of the Tax Administration Act 1994

Late payment penalty: this definition was inserted by section 2(3) Goods and Services Tax Amendment Act 1996 (1996 No 59) with application to tax obligations, liabilities, and rights that are to be performed under or arise in relation to supplies made in respect of taxable periods commencing as from 1 April 1997. See section 1(3) of that Act as to the application of this amendment in relation to other provisions of this Act.

**Licence to occupy** means the right to exclusive personal occupancy

Licence to occupy: this definition was inserted, as from 1 August 1990, by section 2(2) Goods and Services Tax Amendment Act 1990 (1990 No 64).

**local authority**—

- (a) means a local authority within the meaning of the Local Government Act 2002; and
- (b) includes—
  - (i) the administering body within the meaning of the Reserves Act 1977 of any reserve classified under that Act as a scenic reserve or a recreation reserve;
  - (ii) an airport authority (other than an airport company) within the meaning of the Airport Authorities Act 1966;
  - (iii) the Aotea Centre Board of Management established by the Auckland Aotea Centre Empowering Act 1985;
  - (iv) the Canterbury Museum Trust Board continued in existence by section 5(1) of the Canterbury Museum Trust Board Act 1993;
  - (v) the Council of the Auckland Institute and Museum constituted under the Charitable Trusts Act 1957;
  - (vi) the Otago Museum Trust Board continued in existence by section 5(1) of the Otago Museum Trust Board Act 1996;
  - (vii) the Auckland Regional Transport Authority established by section 7 of the Local Government (Auckland) Amendment Act 2004;
  - (viii) Auckland Regional Holdings established by section 18 of the Local Government (Auckland) Amendment Act 2004

Local authority: the Rating Powers Act 1988, being the corresponding enactment in force, was substituted for the repealed Rating Act 1967.

local authority: this definition was substituted, as from 1 July 2003, by section 262 Local Government Act 2002 (2002 No 84). *See* sections 273 to 314 of that Act as to the savings and transitional provisions.

Local authority: paragraph (b)(vii) was substituted, as from 1 July 2004, by section 47 Local Government (Auckland) Amendment Act 2004 (2004 No 57).

Local authority: paragraph (b)(vii) was inserted, as from 1 July 2004, by section 47 Local Government (Auckland) Amendment Act 2004 (2004 No 57).

**Member** includes a partner, a joint venturer, a trustee, or a member of an unincorporated body

Member: this definition was inserted by section 82(5) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39) with application as from 10 October 2000.

**Money** includes—

- (a) Bank notes and other currency, being any negotiable instruments used or circulated, or intended for use or circulation, as currency; and
- (b) Postal notes and money orders; and
- (c) Promissory notes and bills of exchange,—  
whether of New Zealand or any other country, but does not include a collector's piece, investment article, or item of numismatic interest

**Name**, in relation to a registered person, includes—

- (a) The name (if any) specified by the registered person as a trading name in the person's application for registration under this Act; or
- (b) Any trading name subsequently notified to the Commissioner under section 53(2) of this Act as the name the registered person wishes to use for the purpose of issuing or creating tax invoices and credit or debit notes under this Act:

Name: inserted, as from 13 March 1992, by section 2 Goods and Services Tax Amendment Act 1992 (1992 No 2).

**New fine metal** means any fine metal which has been refined into fine metal by a refiner of fine metal

New fine metal: this definition was inserted, as from 3 December 1985, by section 2(9) Goods and Services Tax Amendment Act 1986 (1986 No 43).

**New Zealand** means New Zealand as defined in section YA 1 of the Income Tax Act 2007

**New Zealand unit** means a New Zealand unit as defined in section 4(1) of the Climate Change Response Act 2002

**Non-profit body** means any society, association, or organisation, whether incorporated or not,—

- (a) Which is carried on other than for the purposes of profit or gain to any proprietor, member, or shareholder; and

- (b) Which is, by the terms of its constitution, rules, or other document constituting or governing the activities of that society, association, or organisation, prohibited from making any distribution whether by way of money, property, or otherwise howsoever, to any such proprietor, member, or shareholder:

Non-profit body: this definition was amended, as from 1 July 1994, by section 2(b) Goods and Services Tax Amendment Act 1994 (1994 No 77) by substituting the word “constitution” for the words “memorandum, articles of association”.

**non-resident** means a person to the extent that the person is not resident in New Zealand

non-resident: this definition was inserted, as from 25 November 2003, by section 140(3) Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 (2003 No 122).

**Office of Parliament** means the administrative and support services and staff of—

- (a) The Parliamentary Commissioner for the Environment:  
(b)  
(c) The Ombudsmen:  
(d) The Controller and Auditor-General:

Office of Parliament: this definition was inserted, as from 1 July 1991, by section 2(2) Goods and Services Tax Amendment Act 1991 (1991 No 11).

Office of Parliament: paragraph (b) was repealed, as from 1 July 1993, by section 129(1) Privacy Act 1993 (1993 No 28).

**Officer of the Department** means an officer of the department as defined in the Tax Administration Act 1994

Officer of the Department: this definition was inserted, as from 1 April 1995, by section 51(2) Taxation (Remedial Provisions) Act 1996 (1996 No 159).

**Output tax**, in relation to any registered person, means the tax charged pursuant to section 8(1) of this Act in respect of the supply of goods and services made by that person

**Partnership** and **Partner** have the meanings set out in the Partnership Act 1908

Partnership and Partner: this definition was inserted by section 82(6) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39) with application as from 10 October 2000.

**Penal tax***[Repealed]*

Penal tax: this definition was repealed by section 2(4) Goods and Services Tax Amendment Act 1996 (1996 No 59) with application to tax obligations, liabilities, and rights that are to be performed under or arise in relation to supplies made in respect of taxable periods commencing as from 1 April 1997. See section 1(3) of that Act as to the application of this amendment in relation to other provisions of this Act.

*[Repealed]*

**Person** includes a company, an unincorporated body of persons, a public authority, and a local authority

**provisional tax** means provisional tax as defined in section YA 1 of the Income Tax Act 2007

**Public authority** means all instruments of the Crown in respect of the Government of New Zealand, whether departments, Crown entities, State enterprises, or other instruments; and includes offices of Parliament; but does not include the Governor-General, members of the Executive Council, Ministers of the Crown, or members of Parliament

Public authority: this definition was amended, as from 1 July 1991, by section 2(3) Goods and Services Tax Amendment Act 1991 (1991 No 11) by inserting the words “; and includes officers of Parliament”.

Public authority: this definition was amended, as from 10 April 1995, by section 2(2)(a) Goods and Services Tax Amendment Act 1995 (1995 No 22) by substituting the words “Crown entities, State enterprises” for the words “corporations, agencies”.

**Recipient**, in relation to any supply of goods and services, means the person receiving the supply

**Refiner of fine metal** means any person who satisfies the Commissioner that, in the regular course of business, that person converts or refines any fine metal:

Refiner of fine metal: this definition was inserted, as from 3 December 1985, by section 2(9) Goods and Services Tax Amendment Act 1986 (1986 No 43).

**Registered person** means a person who is registered or is liable to be registered under this Act

**Registration number**, in relation to any registered person, means the number allocated to that registered person for the purposes of this Act

**Resident** means resident as determined in accordance with sections YD 1 and YD 2 (excluding section YD 2(2)) of the Income Tax Act 2007

Provided that, notwithstanding anything in those sections,—

- (a) A person shall be deemed to be resident in New Zealand to the extent that that person carries on, in New Zealand, any taxable activity or any other activity, while having any fixed or permanent place in New Zealand relating to that taxable activity or other activity:
- (b) a person who is an unincorporated body is deemed to be resident in New Zealand if the body has its centre of administrative management in New Zealand:

**Residential establishment** means any commercial dwelling in which not less than 70 percent of the individuals to whom domestic goods and services are supplied reside, or are expected to reside, for a period of, or in excess of, 4 weeks; and also includes any hospital to the extent that it is used to provide domestic goods and services in a way similar to any such residential establishment:

Residential establishment: this definition was inserted, as from 3 December 1985, by section 2(9) Goods and Services Tax Amendment Act 1986 (1986 (No 43)).

**Return** means any return required to be furnished under Part 3 of this Act

**return of income** means a return of income required under section 33 of the Tax Administration Act 1994

**Revenue from the Crown** means any amount brought to charge from the Crown (not being revenue received from any other public authority) by any public authority for the supply of outputs (within the meaning of the Public Finance Act 1989) by that public authority; but does not include—

- (a) Any goods and services tax, chargeable in accordance with the provisions of this Act, on the supply of outputs by that public authority:
- (b) Any revenue collected by that public authority as agent on behalf of the Crown:

Revenue from the Crown: this definition was inserted, as from 1 July 1989, by section 86 Public Finance Act 1989 (1989 No 44). It was substituted, as from 1 July 1989, by section 2(1) Goods and Services Tax Amendment Act (No 2) 1989 (1989 No 152).

Revenue from the Crown: this definition was amended, as from 10 April 1995, by section 2(2)(b) Goods and Services Tax Amendment Act 1995 (1995 No 22) by substituting the words “any amount brought to charge from the Crown” for the words “revenue received from the Crown”.

**Secondhand goods**, does not include—

- (a) Secondhand goods consisting of any fine metal; or
- (b) Secondhand goods which are, or to the extent to which they are, manufactured or made from gold, silver, platinum, or any other substance which, if it were of the required fineness, would be fine metal; or
- (c) Livestock:

Secondhand goods: this definition was substituted, as from 24 March 1988, by section 2(1) Goods and Services Tax Amendment Act 1988 (1988 No 7).

Secondhand goods: this definition was amended by section 2(7) Goods and Services Tax Amendment Act 1986 (1986 No 43).

Secondhand goods the word “or” and paragraph (c) were inserted, as from 22 March 1989, by section 2(4) Goods and Services Tax Amendment Act 1989 (1989 No 8).

**Service occupancy agreement** means a licence whereby a person occupies a dwelling for no consideration:

Service occupancy agreement: this definition was inserted, as from 22 March 1989, by section 2(2) Goods and Services Tax Amendment Act (No 2) 1989 (1989 No 8).

**Services** means anything which is not goods or money

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

Shortfall penalty: this definition was inserted by section 2(5) Goods and Services Tax Amendment Act 1996 (1996 No 59) with application to tax obligations, liabilities, and rights that are to be performed under or arise in relation to supplies made in respect of taxable periods commencing as from 1 April 1997. See section 1(3) of that Act as to the application of this amendment in relation to other provisions of this Act.

**Supplier**, in relation to any supply of goods and services, means the person making the supply

**Tax** means goods and services tax

**Tax file number** has the meaning assigned to that term by section YA 1 of the Income Tax Act 2007

**Tax fraction** means the fraction calculated in accordance with the following formula

$$\frac{a}{100 + a}$$

where—

a is the rate of tax specified in section 8(1) of this Act:

**Tax invoice** means a document provided pursuant to sections 24 and 24BA of this Act

**Tax payable** means an amount of tax calculated in accordance with section 19C and section 20 of this Act; and includes—

- (a) Any amount referred to in section 17(2) or section 51B of this Act;
- (b) Any late payment penalty or shortfall penalty;
- (c) Any amount of tax refundable by the Commissioner pursuant to section 19C or section 20 of this Act; and, for the purposes of section 57, includes interest payable under Part 7 of the Tax Administration Act 1994:

Tax payable: paragraph (a) was amended, as from 21 December 2004, by section 144(2) Taxation (Venture Capital and Miscellaneous Provisions) Act 2004 (2004 No 111) by substituting the words “section 51B” for the words “section 27(6)” with application for taxable periods beginning on or after 1 April 2005.

Tax payable: paragraph (b) was substituted by section 2(6) Goods and Services Tax Amendment Act 1996 (1996 No 59) with application to tax obligations, liabilities, and rights that are to be performed under or arise in relation to supplies made in respect of taxable periods commencing as from 1 April 1997. *See* section 1(3) of that Act as to the application of this amendment in relation to other provisions of this Act.

Tax payable: paragraph (c) was inserted, as from 3 December 1985, by section 2(8) Goods and Services Tax Amendment Act 1986 (1986 No 43).

Tax payable: this definition was amended, as from 1 April 1991, by section 2(4) Goods and Services Tax Amendment Act 1991 (1991 No 11) by substituting the expression “section 19C” for the expression “section 19”, in 2 places.

Tax payable: this definition was amended by section 2(7) Goods and Services Tax Amendment Act 1996 (1996 No 59) by inserting, after the end of paragraph (c), the words “; and, for the purposes of section 57, includes interest payable under Part 7 of the Tax Administration Act 1994:”, with application to tax obligations, liabilities, and rights that are to be performed under or arise in relation to supplies made in respect of taxable periods commencing as from 1 April 1997. *See* section 1(3) of that Act as to the application of this amendment in relation to other provisions of this Act.

**tax year** means a tax year as defined in section YA 1 of the Income Tax Act 2007

**Taxable period**, in relation to a registered person, means a taxable period determined under sections 15 to 15E of this Act

Taxable period: this definition was amended, as from 17 March 1988 by section 2(2) Goods and Services Tax Amendment Act (No 2) 1988 (1988 No 15) by inserting the words “or section 15A”.

**Taxable supply** means a supply of goods and services in New Zealand that is charged with tax under section 8 and includes

a supply that section 11, 11A, 11AB or 11B requires to be charged at the rate of 0%

Taxable supply: this definition was substituted by section 82(8) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39) with application as from 10 October 2000.

Taxable supply: this definition was amended, as from 1 July 2003, by section 152(3) Taxation (Maori Organisations, Taxpayer Compliance and Miscellaneous Provisions) Act 2003 (2003 No 5) by inserting the expression “, 11AB” after the expression “11A”.

**Taxation Review Authority or Authority** means a Taxation Review Authority established under the Taxation Review Authorities Act 1994

Taxation Review Authority: this definition was amended, as from 1 April 1995, by section YB 1 Income Tax Act 1994 (1994 No 164) by substituting the words “Taxation Review Authorities Act 1994” for the words “Inland Revenue Department Act 1974”.

**telecommunications services** means the transmission, emission or reception, and the transfer or assignment of the right to use capacity for the transmission, emission or reception, of signals, writing, images, sounds or information of any kind by wire, cable, radio, optical or other electromagnetic system, or by a similar technical system, and includes access to global information networks but does not include the content of the telecommunication

telecommunications services: this definition was inserted, as from 1 July 2003, by section 152(4) Taxation (Maori Organisations, Taxpayer Compliance and Miscellaneous Provisions) Act 2003 (2003 No 5).

**telecommunications supplier** means a person whose principal activity is the supply of telecommunications services

telecommunications supplier: this definition was inserted, as from 1 July 2003, by section 152(4) Taxation (Maori Organisations, Taxpayer Compliance and Miscellaneous Provisions) Act 2003 (2003 No 5).

**Trustee** includes an executor and administrator; and also includes Public Trust and the Maori Trustee

Trustee: this definition was amended, as from 1 March 2002, by section 170(1) Public Trust Act 2001 (2001 No 100) by substituting the words “Public Trust” for the words “the Public Trustee”. See clause 2 Public Trust Act Commencement Order 2002 (SR 2002/11).

**Unconditional gift** means a payment voluntarily made to any non-profit body for the carrying on or carrying out of the purposes of that non-profit body and in respect of which no identifiable direct valuable benefit arises or may arise in the form

of a supply of goods and services to the person making that payment, or any other person where that person and that other person are associated persons; but does not include any payment made by the Crown or a public authority:

Unconditional gift: this definition was inserted, as from 3 December 1985, by section 2(9) Goods and Services Tax Amendment Act 1986 (1986 No 43).

Unconditional gift: this definition was amended, as from 22 June 1987, by adding the words “; but does not include any payment made by the Crown or a public authority” by section 2(1) Goods and Services Tax Amendment Act 1987 (1987 No 103).

**Unincorporated body** means an unincorporated body of persons, including a partnership, a joint venture, and the trustees of a trust

Unincorporated body: this definition was inserted by section 82(9) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39) with application as from 10 October 2000.

**warranty**, in respect of goods supplied, means an undertaking given under the supply agreement to remedy any defect in the goods that appears during a certain period of time after the goods are supplied or before a certain level of usage is reached.

Warranty: this definition was inserted by section 96(1) Taxation (Relief, Refunds and Miscellaneous Provisions) Act 2002 (2002 No 32) with application as from 1 August 2002.

**Working day** means any day of the week other than—

- (a) Saturday, Sunday, Good Friday, Easter Monday, Anzac Day, Labour Day, the Sovereign’s birthday, and Waitangi Day; and
- (b) A day in the period commencing with the 25th day of December in any year and ending with the 15th day of January in the following year.

- (2) For the purposes of this Act, a reference to goods and services includes a reference to goods or services.

Section 2(1) **balance date**: substituted, on 1 October 2007, by section 283(4) of the Taxation (Depreciation, Payment Dates Alignment, FBT, and Miscellaneous Provisions) Act 2006 (2006 No 3).

Section 2(1) **company**: amended, on 1 April 2008, by section 30 of the Taxation (Limited Partnerships) Act 2008 (2008 No 2).

Section 2(1) **emissions unit**: inserted, on 1 January 2009, by section 78 of the Climate Change Response (Emissions Trading) Amendment Act 2008 (2008 No 85).

hire purchase agreement: this definition was inserted, as from 1 April 2005, by section 139 Credit Contracts and Consumer Finance Act 2003 (2003 No 52). See sections 141 to 143 of that Act as to the transitional provisions.

Section 2(1) **hire purchase agreement**: amended, on 1 April 2008, by section ZA 2(1) of the Income Tax Act 2007 (2007 No 97).

hire purchase agreement: this definition was amended, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35) by substituting the words “Income Tax Act 2004” for the words “Income Tax Act 1994”.

hire purchase agreement: this definition was amended, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35) by substituting the words “paragraph (g)” for the words “paragraph (b)(iii)”.

Section 2(1) **income year**: inserted, on 1 October 2007, by section 283(5) of the Taxation (Depreciation, Payment Dates Alignment, FBT, and Miscellaneous Provisions) Act 2006 (2006 No 3).

Section 2(1) **income year**: amended, on 1 April 2008, by section ZA 2(1) of the Income Tax Act 2007 (2007 No 97).

Section 2(1) **New Zealand**: amended, on 1 April 2008, by section ZA 2(1) of the Income Tax Act 2007 (2007 No 97).

New Zealand: this definition was amended, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35) by substituting the words “Income Tax Act 2004” for the words “Income Tax Act 1994”.

New Zealand: this definition was amended, as from 1 April 1995, by section YB 1 Income Tax Act 1994 (1994 No 164) by substituting the words “section OB 1 of the Income Tax Act 1994” for the words “section 2 of the Income Tax Act 1976”.

Section 2(1) **New Zealand unit**: inserted, on 1 January 2009, by section 78 of the Climate Change Response (Emissions Trading) Amendment Act 2008 (2008 No 85).

Section 2(1) **provisional tax**: inserted, on 1 October 2007, by section 283(6) of the Taxation (Depreciation, Payment Dates Alignment, FBT, and Miscellaneous Provisions) Act 2006 (2006 No 3).

Section 2(1) **provisional tax**: amended, on 1 April 2008, by section ZA 2(1) of the Income Tax Act 2007 (2007 No 97).

Section 2(1) **resident**: amended, on 1 April 2008, by section ZA 2(1) of the Income Tax Act 2007 (2007 No 97).

Resident: the proviso was substituted, as from 3 December 1985, by section 2(6) Goods and Services Tax Amendment Act 1986 (1986 No 43).

Resident: this definition was amended, as from 1 April 1995, by section YB 1 Income Tax Act 1994 (1994 No 164) by substituting the words “sections OE 1 and OE 2(1) of the Income Tax Act 1994” for the words “section 241 of the Income Tax Act 1976”.

Resident: paragraph (b) of the proviso was substituted by section 82(7) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39) with application as from 10 October 2000.

Resident: the proviso was amended, as from 21 December 2004, by section 144(1) Taxation (Venture Capital and Miscellaneous Provisions) Act 2004

(2004 No 111) by substituting the words “those sections” for the words “that section”.

**Resident:** this definition was amended, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35) by substituting the words “Income Tax Act 2004” for the words “Income Tax Act 1994”.

**Section 2(1) return of income:** inserted, on 1 October 2007, by section 283(7) of the Taxation (Depreciation, Payment Dates Alignment, FBT, and Miscellaneous Provisions) Act 2006 (2006 No 3).

**Tax file number:** this definition was inserted, as from 23 September 1997, by section 109 Taxation (Remedial Provisions) Act 1997 (1997 No 74).

**Section 2(1) tax file number:** amended, on 1 April 2008, by section ZA 2(1) of the Income Tax Act 2007 (2007 No 97).

**Tax file number:** this definition was amended, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35) by substituting the words “Income Tax Act 2004” for the words “Income Tax Act 1994”.

**Section 2(1) tax invoice:** amended, on 19 December 2007, by section 271(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

**Section 2(1) tax year:** inserted, on 1 October 2007, by section 283(8) of the Taxation (Depreciation, Payment Dates Alignment, FBT, and Miscellaneous Provisions) Act 2006 (2006 No 3).

**Section 2(1) tax year:** amended, on 1 April 2008, by section ZA 2(1) of the Income Tax Act 2007 (2007 No 97).

**Section 2(1) taxable period:** amended, on 1 October 2007, by section 283(9) of the Taxation (Depreciation, Payment Dates Alignment, FBT, and Miscellaneous Provisions) Act 2006 (2006 No 3).

**Subsection (1)** was amended by section 82(2) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39) by substituting the expression “section 12” for the expression “sections 12 and 13”, with application as from 1 October 1996.

## **2A Meaning of associated persons**

- (1) In this Act, **associated persons** or persons associated with each other are—
- (a)
    - (i) has voting interests in each of those companies of 50% or more when added together; or
    - (ii) has market value interests in each of those companies of 50% or more when added together and a market value circumstance exists in respect of either company; or
    - (iii) has control of each of those companies by any other means whatsoever:

- (b) a company and a person other than a company if the person has—
  - (i) a voting interest in the company of 25% or more; or
  - (ii) a market value interest in the company of 25% or more and a market value circumstance exists in respect of the company:
- (bb) a person, or a branch or division of the person that is treated as a separate person under section 56B, and another branch or division of the person that is treated as a separate person under section 56B:
- (c) two persons who are—
  - (i) connected by blood relationship;
  - (ii) connected by marriage, civil union or de facto relationship;
  - (iii) connected by adoption;
  - (iv)
- (cb) a trustee of a trust and another person (**person A**), if—
  - (i) person A is associated with another person (the **relative**) under paragraph (c); and
  - (ii) the relative is associated with the trustee under paragraph (f):
- (d) a partnership and a partner in the partnership:
- (e) a partnership and a person if the person is associated with a partner in the partnership:
- (f) a trustee of a trust and a person who has benefited or is eligible to benefit under the trust, except if, in relation to a supply of goods and services—
  - (i) the trustee is a charitable or non-profit body with wholly or principally charitable, benevolent, philanthropic or cultural purposes; and
  - (ii) the supply is made in carrying out these purposes:
- (g) a trustee of a trust and a settlor of the trust, except if the trustee is a charitable or non-profit body with wholly or principally charitable, benevolent, philanthropic or cultural purposes:
- (h) a trustee of a trust and a trustee of another trust if the same person is a settlor of both trusts:
- (i) a person (person A) and another person (person B) if—

- (i) person B is associated with a third person (person C) under any one of paragraphs (a) to (h); and
  - (ii) person C is associated with person A under any one of paragraphs (a) to (h).
- (2) For the purpose of subsection (1)(a), **group of persons** has the meaning set out in section YA 1 of the Income Tax Act 2007.
- (3) For the purpose of subsection (1)(a) and (1)(b)—
  - (a) **market value circumstance** has the meaning set out in section YA 1 of the Income Tax Act 2007, as if the reference to this Act in paragraph (e) of the definition were to “the Goods and Services Tax Act 1985”:
  - (b) **market value interest** has the meaning set out in paragraph (a) of the definition of **market value interest** in section YA 1 of the Income Tax Act 2007:
  - (c) **voting interest** has the meaning set out in paragraph (a) of the definition of **voting interest** in section YA 1 of the Income Tax Act 2007.
- (4) For the purpose of subsection (1)(a) and (1)(b), if a person (person A) and another person (person B) are **associated persons** under any of subsection (1)(c) to (1)(i), person A is treated as holding anything held by person B.
- (5)
- (6) For the purpose of subsection (1)(c)—
  - (a) persons are connected by blood relationship if they are within the second degree of relationship:
  - (b) persons are connected by marriage, civil union or de facto relationship if one is in a marriage, civil union or de facto relationship with the other or with a person who is connected by blood relationship to the other:
  - (c) persons are connected by adoption if one has been adopted as the child of the other or as a child of a person who is within the first degree of relationship to the other.
- (7) For the purpose of subsection (1)(g) and (1)(h), **settlor** has the meaning set out in section YA 1 of the Income Tax Act 2007.
- (8) Subsection (1)(i) does not apply if 2 persons (persons A and B) are both associated with a third person (person C) under subsection (1)(c).

Section 2A was inserted by section 83(1) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39) with application as from 10 October 2000.

Subsection (1)(bb) was inserted, as from 1 January 2005, by section 141 Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 (2003 No 122). *See* clause 2 Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act Commencement Order 2004 (SR 2004/226).

Subsection (1)(c) was substituted, as from 26 April 2005, by section 3(1) Goods and Services Tax Amendment Act 2005 (2005 No 9).

Subsection (1)(c)(iv) was repealed, as from 18 December 2006, by section 211(a) Taxation (Savings Investment and Miscellaneous Provisions) Act 2006 (2006 No 81).

Subsection (1)(cb) was inserted, as from 18 December 2006, by section 211(b) Taxation (Savings Investment and Miscellaneous Provisions) Act 2006 (2006 No 81).

Subsection (1)(g) was substituted by section 61(1) Taxation (Beneficiary Income of Minors, Services-Related Payments and Remedial Matters) Act 2001 (2001 No 4) with application as from 10 October 2000.

Section 2A(2): amended, on 1 April 2008, by section ZA 2(1) of the Income Tax Act 2007 (2007 No 97).

Subsection (2) was amended, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35) by substituting the words “Income Tax Act 2004” for the words “Income Tax Act 1994”.

Section 2A(3)(a): amended, on 1 April 2008, by section ZA 2(1) of the Income Tax Act 2007 (2007 No 97).

Subsection (3)(a) was amended, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35) by substituting the words “Income Tax Act 2004, as if the reference to ‘this Act’ in paragraph (e)” for the words “Income Tax Act 1994, as if the reference to ‘this Act’ in paragraph (a)(v)”.

Section 2A(3)(b): amended, on 1 April 2008, by section ZA 2(1) of the Income Tax Act 2007 (2007 No 97).

Subsection (3)(b) was amended, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35) by substituting the words “Income Tax Act 2004” for the words “Income Tax Act 1994”.

Section 2A(3)(c): amended, on 1 April 2008, by section ZA 2(1) of the Income Tax Act 2007 (2007 No 97).

Subsection (3)(c) was amended, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35) by substituting the words “Income Tax Act 2004” for the words “Income Tax Act 1994”.

Subsection (5) was repealed, as from 26 April 2005, by section 3(1) Goods and Services Tax Amendment Act 2005 (2005 No 9).

Subsection (6) was amended, as from 26 April 2005, by section 3(1) Goods and Services Tax Amendment Act 2005 (2005 No 9) by substituting the words “For the purpose of subsection (1)(c)—” for the words “In subsection (5)—”.

Subsection (6)(b) was substituted, as from 26 April 2005, by section 3(1) Goods and Services Tax Amendment Act 2005 (2005 No 9).

Subsection (6)(b) was substituted, as from 1 April 2007, by section 3(2) Goods and Services Tax Amendment Act 2005 (2005 No 9).

Section 2A(7): amended, on 1 April 2008, by section ZA 2(1) of the Income Tax Act 2007 (2007 No 97).

Subsection (7) was amended, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35) by substituting the words “Income Tax Act 2004” for the words “Income Tax Act 1994”.

### **3 Meaning of term financial services**

- (1) For the purposes of this Act, the term **financial services** means any one or more of the following activities:
- (a) The exchange of currency (whether effected by the exchange of bank notes or coin, by crediting or debiting accounts, or otherwise):
  - (b) The issue, payment, collection, or transfer of ownership of a cheque or letter of credit:
  - (c) The issue, allotment, drawing, acceptance, endorsement, or transfer of ownership of a debt security:
  - (d) The issue, allotment, or transfer of ownership of an equity security or a participatory security:
  - (e) Underwriting or sub-underwriting the issue of an equity security, debt security, or participatory security:
  - (f) The provision of credit under a credit contract:
  - (g) The renewal or variation of a debt security, equity security, participatory security, or credit contract:
  - (h) The provision, taking, variation, or release of a guarantee, indemnity, security, or bond in respect of the performance of obligations under a cheque, credit contract, equity security, debt security, or participatory security, or in respect of the activities specified in paragraphs (b) to (g) of this subsection:
  - (i) The provision, or transfer of ownership, of a life insurance contract or the provision of re-insurance in respect of any such contract:
  - (j) The provision, or transfer of ownership, of an interest in a superannuation scheme, or the management of a superannuation scheme:
  - (k) the provision or assignment of a futures contract through a defined market or at arm’s length if—

- (i) the contract does not provide for the delivery of a commodity; or
  - (ii) the contract provides for the delivery of a commodity and the supply of the commodity is an exempt supply; or
  - (iii) the contract provides for the delivery of money:
- (kaa) the provision of a financial option:
- (ka) The payment or collection of any amount of interest, principal, dividend, or other amount whatever in respect of any debt security, equity security, participatory security, credit contract, contract of life insurance, superannuation scheme, or futures contract:
- (l) Agreeing to do, or arranging, any of the activities specified in paragraphs (a) to (ka) of this subsection, other than advising thereon:
- (m) the investment in an entity, if—
    - (i) the investment is in an equity security equal to or greater than 10% of all equity securities issued by the entity or in a participatory security equal to or greater than 10% of all participatory securities issued by the entity; and
    - (ii) the investment allows the investor, or a person acting on behalf of the investor, to influence the management of the business of the entity:
  - (n) the evaluation by an investor of an investment referred to in paragraph (m) in an entity and the planning or acting by the investor to influence the management of an entity for the principal purpose of preserving or increasing the value of such an investment.
- (2) For the purposes of this section—
- Cheque** means a cheque as defined in the Bills of Exchange Act 1908, an instrument specified in section 5(2) of the Cheques Act 1960, a postal note, a money order, a traveller's cheque, or any order or authorisation (whether in writing, by electronic means, or otherwise) to a financial institution to credit or debit any account

**credit contract** means a credit contract as defined in section 3 of the Credit Contracts Act 1981 immediately before the repeal of that Act

credit contract: this definition was substituted, as from 1 April 2005, by section 139 Credit Contracts and Consumer Finance Act 2003 (2003 No 52). *See* sections 141 to 143 of that Act as to the transitional provisions.

credit contract: this definition was substituted, as from 1 April 2005, by section 284(1) Taxation (Depreciation, Payment Dates Alignment, FBT, and Miscellaneous Provisions) Act 2006 (2006 No 3).

**Currency** means any banknote or other currency of any country, other than when used as a collector's piece, investment article, item of numismatic interest, or otherwise than as a medium of exchange

**Debt security** means any interest in or right to be paid money that is, or is to be, owing by any person; but does not include a cheque

**Equity security** means any interest in or right to a share in the capital of a body corporate

**General accounting and record package services**, in relation to financial services, includes—

- (a) The provision of any financial clearing system which may form part of a settlement process; and
- (b) The posting of transactions to customers' accounts; and
- (c) The maintenance of those customers' accounts; and
- (d) The provision of any ancillary services (such as network management, software support and development) supplied in relation to the services referred to in any of paragraphs (a), (b), and (c) of this definition,—

but does not include the services referred to in paragraphs (a) to (d) of this definition where those services are supplied by a supplier of a financial service and are reasonably incidental and necessary to the supply of that financial service by that supplier of the financial service

General accounting and record package services: this definition was inserted, as from 19 December 1989, by section 3(1) Goods and Services Tax Amendment Act (No 2) 1989 (1989 No 152).

**Life insurance contract** means a contract lawfully entered into to the extent that it places a sum or sums at risk upon the contingency of the termination or continuance of human life, marriage, civil union or de facto relationship, or the birth of

a child, but not to the extent that it provides for entitlements under Schedule 1, Part 5 of the Accident Insurance Act 1998 (which relates to entitlements arising from fatal injuries)

life insurance contract: this definition was substituted by section 78(1) Taxation (Remedial Matters) Act 1999 (1999 No 98) with application as from 1 April 1999.

life insurance contract: this definition was amended, as from 26 April 2005, by section 3(1) Goods and Services Tax Amendment Act 2005 (2005 No 9) by substituting “marriage or civil union,” for “marriage”.

life insurance contract: this definition was amended, as from 1 April 2007, by section 3(2) Goods and Services Tax Amendment Act 2005 (2005 No 9) by substituting “marriage, civil union or de facto relationship,” for “marriage or civil union,”.

**Participatory security** means any interest or right to participate in any capital, assets, earnings, or other property of any person where that interest or right forms part of a contributory scheme (as defined in section 2 of the Securities Act 1978); and includes an interest in a unit trust within the meaning of the Unit Trusts Act 1960; but does not include an equity security, a debt security, money, or a cheque

**Superannuation scheme** means a superannuation scheme as defined in the Superannuation Schemes Act 1989.

superannuation scheme: this term was substituted, as from 1 July 1989, by section 2(3) Goods and Services Tax Amendment Act 1990 (1990 No 64).

- (3) Notwithstanding subsection (2) of this section, the terms **debt security**, **equity security**, and **participatory security** do not include any of the following:
- (a) A life insurance contract or any other contract of insurance:
  - (b)
  - (c) A share in the share capital of a flat-owning or office-owning company (as defined in section 121A of the Land Transfer Act 1952):
  - (d) An interest in a superannuation scheme.
- (3B) Despite subsection (2), a person who is a party to an arrangement that is a credit contract but is not a credit contract under section 7 of the Credit Contracts and Consumer Finance Act 2003 may elect that the arrangement be treated under this section as not being a credit contract in relation to the person.
- (3C) Despite subsection (2), a person who is a party to an arrangement that is not a credit contract but is a credit contract under

section 7 of the Credit Contracts and Consumer Finance Act 2003 may elect that the arrangement be treated under this section as being a credit contract in relation to the person.

- (4) Despite this section, **financial services** does not include—
- (a) the assignment or other transfer of a right to receive payment in relation to a taxable supply if, as a result of the assignment or transfer, output tax for the supply would not be or become attributable to a taxable period for the purpose of section 20(4):
  - (b) debt collection services provided by a person other than the creditor whose debt is being collected.
- (5) Notwithstanding anything in this section, where any person supplies goods and services (being the supply of general accounting and record package services) to any person who is a supplier of financial services, or to a customer of the person who is a supplier of financial services, that supply shall, for the purposes of this Act, be deemed not to be a supply of financial services.

Subsection (1)(k) was substituted, by section 83(1) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39) with application as from 10 October 2000.

Subsection (1)(kaa) was inserted, by section 83(1) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39) with application as from 10 October 2000.

Subsection (1)(ka) was inserted, as from 3 December 1985, by section 3(1) Goods and Services Tax Amendment Act 1986 (1986 No 43).

Subsection (1)(l) was amended, as from 3 December 1985, by section 3(2) Goods and Services Tax Amendment Act 1986 (1986 No 43) by substituting “(ka)” for “(k)”.

Subsection (1)(l) was amended, as from 18 December 2006, by section 212 Taxation (Savings Investment and Miscellaneous Provisions) Act 2006 (2006 No 81) by substituting “thereon:” for “thereon.”

Subsection (1)(m) and (n) was inserted, as from 18 December 2006, by section 212 Taxation (Savings Investment and Miscellaneous Provisions) Act 2006 (2006 No 81).

Subsection (3)(b) was omitted, as from 3 April 2006, by section 284(2) Taxation (Depreciation, Payment Dates Alignment, FBT, and Miscellaneous Provisions) Act 2006 (2006 No 3) with application for supplies of financial services that are made on or after 3 April 2006.

Subsection (3)(c) was amended, as from 1 July 1994, by section 142 Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 (2003 No 122) by substituting “(as defined in section 121A of the Land Trans-

fer Act 1952)” for “(as defined in section 2(1) of the Companies Amendment Act 1964)”.

Subsections (3B) and (3C) were inserted, as from 1 April 2005, by section 284(3) Taxation (Depreciation, Payment Dates Alignment, FBT, and Miscellaneous Provisions) Act 2006 (2006 No 3).

Subsection (4) was substituted by section 83(2) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39) with application as from 10 October 2000.

Subsection (5) was inserted, as from 19 December 1989, by section 3(2) Goods and Services Tax Amendment Act (No 2) 1989 (1989 No 152).

### 3A Meaning of input tax

- (1) **Input tax**, in relation to a registered person, means—
- (a) tax charged under section 8(1) on the supply of goods and services made to that person, being goods and services acquired for the principal purpose of making taxable supplies;
  - (b) tax levied under section 12(1) of this Act on goods entered for home consumption under the Customs and Excise Act 1996 by that person, being goods applied or acquired for the principal purpose of making taxable supplies;
  - (c) an amount determined under subsection (3) after applying subsection (2).
- (2) In the case of a supply by way of sale to a registered person of secondhand goods situated in New Zealand, the amount of input tax is determined under subsection (3) if—
- (a) the supply is not a taxable supply; and
  - (b) the goods are not supplied by a supplier who—
    - (i) is a non-resident; and
    - (ii) has previously supplied the goods to a registered person who has entered them for home consumption under the Customs and Excise Act 1996; and
  - (c) the goods are acquired for the principal purpose of making taxable supplies and—
    - (i) the taxable supplies are not charged with tax at the rate of 0% under section 11A(1)(q) or (r); or
    - (ii) the taxable supplies are charged with tax at the rate of 0% under section 11A(1)(q) or (r) and the goods have never, before the acquisition, been

- owned or used by the registered person or by a person associated with the registered person.
- (3) The amount of input tax is—
- (a) if the supplier and the recipient are associated persons, the lesser of—
    - (i) the tax included in the original cost of the goods to the supplier; and
    - (ii) the tax fraction of the purchase price; and
    - (iii) the tax fraction of the open market value of the supply; or
  - (b) if the supplier and the recipient are associated persons and the supplier is deemed to have made a supply of the goods under section 5(3) that has been valued under section 10(7A), the lesser of—
    - (i) the tax fraction of the open market value of the deemed supply under section 5(3); and
    - (ii) the tax fraction of the purchase price; and
    - (iii) the tax fraction of the open market value of the supply; or
  - (c) if the supplier and the recipient are associated persons and the supplier is deemed to have made a supply of the goods under section 5(3) that has been valued under section 10(8), the lesser of—
    - (i) the tax fraction of the valuation under section 10(8) of the deemed supply under section 5(3); and
    - (ii) the tax fraction of the purchase price; and
    - (iii) the tax fraction of the open market value of the supply; or
  - (d) if the supplier and the recipient are not associated persons and the supply is not the only matter to which the consideration relates, the lesser of—
    - (i) the tax fraction of the purchase price; and
    - (ii) the tax fraction of the open market value of the supply; or
  - (e) in all other cases, the tax fraction of the consideration in money for the supply.
- (4) For the purpose of subsection (1)(b), **applied** does not include—

- (a) the delivery or the arranging of the delivery of the goods to a person in New Zealand; or
  - (b) the making of the delivery of the goods to a person in New Zealand more easily achieved.
- (4A) For the purpose of subsections (1) and (2), if a supply of goods and services acquired by a non-profit body is not acquired for the principal purpose of making exempt supplies, the supply is treated as being acquired for the principal purpose of making taxable supplies.
- (5) For the purpose of subsection (3), **tax fraction** means the tax fraction that applies at the time of supply.

Section 3A was inserted by section 85(1) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39) with application as from 10 October 2000.

Subsection (2)(b)(i) was substituted, as from 25 November 2003, by section 143(1) Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 (2003 No 122).

Subsection (2)(c) was substituted, as from 1 January 2005, by section 143(2) Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 (2003 No 122). *See* clause 2 Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act Commencement Order 2004 (SR 2004/226).

Subsection (4A) was inserted by section 97(1) Taxation (Relief, Refunds and Miscellaneous Provisions) Act 2002 (2002 No 32) with application to supplies made as from 17 October 2002.

#### 4 Meaning of term open market value

- (1) For the purposes of this section—
- (a) The term **similar supply**, in relation to a supply of goods and services, means any other supply of goods and services that, in respect of the characteristics, quality, quantity, functional components, materials, and reputation of the goods and services first mentioned, is the same as, or closely or substantially resembles, that supply of goods and services:
  - (b) The open market value of a supply shall include any goods and services tax charged pursuant to section 8(1) of this Act on that supply.
- (2) For the purposes of this Act, the open market value of any supply of goods and services at any date shall be the consideration in money which the supply of those goods and services would generally fetch if supplied in similar circumstances at that date

in New Zealand, being a supply freely offered and made between persons who are not associated persons.

- (3) Where the open market value of any supply of goods and services cannot be determined under subsection (2) of this section, the open market value shall be the consideration in money which a similar supply would generally fetch if supplied in similar circumstances at that date in New Zealand, being a supply freely offered and made between persons who are not associated persons.
- (4) Where the open market value of any supply of goods and services cannot be determined pursuant to subsection (2) or subsection (3) of this section, the open market value shall be determined in accordance with a method approved by the Commissioner which provides a sufficiently objective approximation of the consideration in money which could be obtained for that supply of those goods and services.
- (5) For the purposes of this Act the open market value of any consideration, not being consideration in money, for a supply of goods and services shall be ascertained in the same manner, with any necessary modifications, as the open market value of any supply of goods and services is ascertained pursuant to the foregoing provisions of this section.

Subsection (1)(b) was substituted, as from 3 December 1985, by section 4 Goods and Services Tax Amendment Act 1986 (1986 No 43).

In subsection (3) the words “consideration in money . . . at that date” were substituted, as from 24 March 1988, for the words “value of a similar supply” by section 3 Goods and Services Tax Amendment Act 1988 (1988 No 7).

## **5 Meaning of term supply**

- (1) For the purposes of this Act, the term **supply** includes all forms of supply.
- (2) For the purposes of this Act, where any goods acquired (whether in terms of a hire purchase agreement or otherwise) or produced by a person (that person being referred to hereafter in this subsection as the first person) are sold, under a power exercisable by another person (that person being referred to hereafter in this subsection as the second person), in or towards the satisfaction of a debt owed by the first person, those goods shall be deemed to be supplied in the course or

furtherance of a taxable activity carried on by the first person (being deemed a registered person), unless—

- (a) The first person has furnished, to the second person, a statement in writing that the supply of those goods would not be a taxable supply if those goods were sold by the first person (notwithstanding that the first person may not be the owner of those goods), and stating fully the reasons why that supply would not be a taxable supply; or
  - (b) Where the second person has been unable to obtain the written statement referred to in paragraph (a) of this subsection, that person may determine, in relation to any reasonable information held, that the supply of those goods would not have been a taxable supply if those goods had been sold by the first person (notwithstanding that the first person may not be the owner of those goods).
- (3) For the purposes of this Act, where a person ceases to be a registered person, any goods and services then forming part of the assets of a taxable activity carried on by that person shall be deemed to be supplied by that person in the course of that taxable activity at a time immediately before that person ceases to be a registered person, unless the taxable activity is carried on by another person who, pursuant to section 58 of this Act, is deemed to be a registered person.
- (3A)
- (4) For the purposes of this Act, a credit agreement to which the Door to Door Sales Act 1967 applies shall not constitute a supply of goods and services unless the purchaser has failed to exercise the right under section 7 of that Act to cancel the agreement within the period made available to the purchaser by that section.
- (5) For the purposes of this Act, any contract that is a layby sale to which the Layby Sales Act 1971 applies shall not constitute a supply of goods and services unless the goods which are the subject of the contract are delivered to the buyer and the property therein is transferred to the buyer:  
Provided that a supply of services shall, in respect of any such contract, be deemed to have taken place where—

- (a) A layby sale is cancelled pursuant to the Layby Sales Act 1971; and
  - (b) The seller either—
    - (i) Retains any amount paid to the seller to recoup that seller's selling costs in respect of the layby sale; or
    - (ii) Recovers any amount (including, or in addition to, the amount referred to in subparagraph (i) of this paragraph) from the buyer,—

pursuant to section 9(1)(b) of the Layby Sales Act 1971.
- (6) For the purposes of this Act, every public authority is deemed to supply goods and services where, within the meaning of the Public Finance Act 1989, any amount is brought to charge by the public authority as revenue from the Crown for the supply of outputs.
- (6A) For the purposes of this Act, any registration fee paid pursuant to section 7(3) of the Transport (Vehicle and Driver Registration and Licensing) Act 1986 (and prescribed in Part 1 of Schedule 2 to that Act), and any annual licence fee paid pursuant to section 10(2) of that Act (and prescribed in Part 2 of Schedule 2 to that Act), shall be deemed to be consideration for a supply of services in the course or furtherance of a taxable activity carried on by the New Zealand Transport Agency.
- (6AB) For the purposes of this Act, a levy that is paid to the New Zealand Fire Service Commission under section 48 of the Fire Service Act 1975 and is not a penalty surcharge or interest payable under that Act is treated as being consideration for a supply of services to the insured person in the course or furtherance of a taxable activity carried on by the Commission.
- (6B) For the purposes of this Act, any amount of road user charge paid on or after the 26th day of April 1993 pursuant to section 9 of the Road User Charges Act 1977 shall be deemed to be a consideration for a supply of services in the course or furtherance of a taxable activity carried on by the New Zealand Transport Agency.

- (6C) For the purposes of this Act, the amount of any deposit specified in, and paid under, section 127A or section 144 or section 146F of the Electoral Act 1993 is deemed to be consideration (inclusive of tax) for a supply of services by the department of State that, with the authority of the Prime Minister, is for the time being responsible for the administration of the Electoral Act 1993 in the course or furtherance of a taxable activity, and that supply is deemed to take place when and if the deposit is forfeited under section 127A(3) or section 144(3) or section 146F(3) of that Act.
- (6CA) For the purposes of this Act, the amount of any deposit referred to in, and paid under, section 55 of the Local Electoral Act 2001 is deemed to be consideration (inclusive of tax) for a supply of services by the relevant local authority in the course or furtherance of a taxable activity, and that supply is deemed to take place when and if the deposit is forfeited under section 59 of that Act.
- (6D) For the purposes of this Act, where any payment in the nature of a grant or subsidy is made on behalf of the Crown or by any public authority to—
- (a) Any person (not being a public authority) in relation to or in respect of that person's taxable activity; or
  - (b) Any person for the benefit and on behalf of another person in relation to or in respect of that other person's taxable activity,—
- that payment shall be deemed to be consideration for a supply of goods and services by the person to whom or for whose benefit the payment is made in the course or furtherance of that person's taxable activity.
- (6E) For the purposes of subsection (6D) of this section, the term **payment in the nature of a grant or subsidy**—
- (a) Includes—
    - (i) Any suspensory loan or advance, when that loan or advance becomes non-repayable by reason of its conditions for non-repayment being satisfied; and
    - (ii) Any payment in the nature of a grant or subsidy of a kind that is declared by the Governor-General by Order in Council to be a taxable grant or

subsidy for the purposes of subsection (6D) of this section, being a payment that, but for such declaration, would be excluded from this definition by virtue of paragraph (b)(ii) of this subsection:

- (b) Does not include—
  - (i) Any payment of a benefit paid under the Social Security Act 1964; or
  - (ii) Subject to paragraph (a)(ii) of this subsection, any other payment made to a person where the payment is for the personal use and benefit of the person or, as the case may be, a relative (as defined in paragraphs (c) and (d) of the definition of that term in section YA 1 of the Income Tax Act 2007) of the person; or
  - (iii) Any payment of a kind that is declared by the Governor-General by Order in Council not to be a taxable grant or subsidy for the purposes of subsection (6D) of this section.
- (7) For the purposes of this Act—
  - (a) Every local authority is deemed to supply goods and services to any person where any amount of rates is payable by that person to that local authority:  
*[Repealed]*
  - (b) the Chatham Islands Council is treated as supplying goods and services to a person if an amount of council dues, as defined in section 2 of the Chatham Islands Council Act 1995, is payable by the person to the Chatham Islands Council.
- (7B) For the purposes of this Act, a local authority is treated as supplying goods and services to a person if the local authority requires a contribution from the person as—
  - (a) a financial contribution that is a condition of a resource consent under the Resource Management Act 1991;
  - (b) a development contribution under the Local Government Act 2002.
- (7C) For the purposes of this Act, a person who makes a contribution to a local authority is treated as supplying goods and

- services to the local authority to the extent that the contribution consists of land and is—
- (a) a financial contribution that is a condition of a resource consent under the Resource Management Act 1991:
  - (b) a development contribution under the Local Government Act 2002.
- (7D) For the purposes of this Act, a territorial authority is treated as supplying goods and services to a person if the territorial authority requires the person to give it land or money under the provisions of its affordable housing policy that reflect section 11 of the Affordable Housing: Enabling Territorial Authorities Act 2008.
- (7E) For the purposes of this Act, a person who gives a territorial authority land under the provisions of the authority's affordable housing policy that reflect section 11 of the Affordable Housing: Enabling Territorial Authorities Act 2008 is treated as supplying goods and services to the territorial authority.
- (8) Despite any other provision of this Act, for the purposes of this Act, if any racing betting or sports betting (within the meaning of section 5 of the Racing Act 2003) is conducted by the Board (as defined in section 5 of the Racing Act 2003), the betting must be regarded as a supply of services by the Board.
- (9) *[Repealed]*
- (10) Despite anything in this Act, for the purposes of this Act if a person pays an amount in money to participate in gambling (including a New Zealand lottery), the amount of money paid to participate must be treated as payment for the supply of services by the person, society, licensed promoter, or organiser who under the Gambling Act 2003 conducts the gambling.
- (11) For the purposes of subsection (10)—
- (a) the terms **gambling**, **New Zealand lottery**, **licensed promoter**, and **society** have the meanings set out in section 4(1) of the Gambling Act 2003:
  - (b) the term **organiser** means the New Zealand Lotteries Commission continued by section 236 of the Gambling Act 2003.

- (11A) *[Repealed]*
- (11B) Despite anything in this Act, for the purposes of this Act if a person pays to a casino an amount in money—
- (a) to purchase a chip or otherwise participate in gambling played or conducted in a casino venue; or
  - (b) as commission for participating in gambling played or conducted in a casino venue,—
- the money paid must be treated as payment for the supply of services by the holder of the casino operator's licence.
- (11C) For the purposes of subsection (11B), the terms **casino venue**, **chip**, and **gambling** have the meanings set out in section 4(1) of the Gambling Act 2003.
- (11D) Subsections (11E) to (11I) apply to a token, stamp or voucher that gives the recipient the right to receive goods and services, other than a token, stamp or voucher issued for no consideration.
- (11E) The issue or sale of a token, stamp or voucher is treated as a supply of goods and services.
- (11EA) A supply does not include the issue or sale of a token, stamp or voucher by a registered person to another registered person who subsequently issues or sells the token, stamp or voucher, unless the first-mentioned registered person is the person who supplies the goods and services on redemption of the token, stamp or voucher.
- (11F) A supply of goods and services is not treated as being made to the extent that goods and services are supplied for the redemption of a token, stamp or voucher.
- (11G) Despite subsection (11F), the supplier of a token, stamp or voucher, with a face value may treat the supply of goods and services on the redemption of the token, stamp or voucher instead of the issue or sale, as a supply of goods and services—
- (a) if it is not practical to treat the issue or sale as a supply of goods and services; and
  - (b) if the supplier of the goods and services and the issuer or seller of the token, stamp or voucher are, or could be, different persons, the issuer and the supplier, or the seller and the supplier, agree, or are parties to an agreement.

- (11GA) For the purpose of subsection (11G)(b), a situation in which it may not be practical to treat the issue or sale as a supply of goods and services includes one in which the issuer or seller of a token, stamp or voucher and the supplier of the goods and services for which the token, stamp or voucher is redeemed may be different persons.
- (11H) Subsection (11G) does not apply to the extent that the consideration that is received for the supply is more than the face value of the token, stamp or voucher.
- (11I) Subsection (11G) does not apply to the supply of—
- (a) an adhesive label, or a mark or design, that is—
    - (i) issued or sold by a person to another person; and
    - (ii) affixed to, impressed on, or printed on stationery; and
    - (iii) indicates pre-payment of the fee chargeable for the carriage of a letter, parcel, or other article; and
    - (iv) not intended to distinguish the article to which it relates from similar articles carried by the same person:
  - (b) a token, stamp or voucher that gives the recipient the right to receive services described in section 11A(2).
- (12) The disposition of a taxable activity as a going concern shall be deemed to be a supply of goods made in the course or furtherance of the taxable activity.
- (13) For the purpose of this Act, except for subsection (13B) and section 20(3), if a registered person receives a payment under a contract of insurance, whether or not the person is a party to the contract, the payment is, to the extent that it relates to a loss incurred in the course or furtherance of the registered person's taxable activity, deemed to be consideration received for a supply of services performed by the registered person—
- (a) on the day the registered person receives the payment; and
  - (b) in the course or furtherance of the registered person's taxable activity:

Provided that this subsection shall not apply in respect of any payment received pursuant to a contract of insurance where—

- (a) The supply of that contract of insurance is not a supply charged with tax pursuant to section 8(1) of this Act; or
  - (b) That payment is in respect of an entitlement for any loss of earnings (being earnings within the meaning of the Accident Compensation Act 1982 or the Accident Rehabilitation and Compensation Insurance Act 1992 or the Accident Insurance Act 1998) or the Injury Prevention, Rehabilitation, and Compensation Act 2001..
- (13A) For the purposes of this Act, if a registered person receives any refund of excise duty or excise-equivalent duty paid out of the Crown Bank Account under section 41 of the Land Transport Management Act 2003, that refund is, to the extent that it relates to excise duty or excise-equivalent duty incurred for the principal purpose of making taxable supplies, deemed to be consideration received for a supply of services by that registered person in the course or furtherance of that person's taxable activity.
- (13B) For the purposes of this Act, where—
  - (a) An insurer recovers an amount (other than aggravated or exemplary damages) as a result of the exercise of rights acquired by subrogation under a contract of insurance; and
  - (b) a deduction under section 20(3)(d) has been allowed to the insurer for the payment to which the recovered amount relates—the amount recovered is deemed to be consideration received for a supply of services performed in the course of that insurer's taxable activity, and a supply of services is deemed to be performed on the day of the insurer's receipt of the amount.
- (14) If a supply is charged with tax under section 8, but section 11, 11A, 11AB or 11B requires part of the supply to be charged at the rate of 0%, that part of the supply is treated as being a separate supply.
- (14B) If part of a supply of an equity security or participatory security is the supply of a right to receive supplies of goods and services that are not exempt supplies, the supply of the right

is treated as being a supply of goods and services made for a consideration.

- (15) Where a dwelling is included in a supply, the supply of that dwelling is deemed to be a separate supply from the supply of any other real property included in the supply.
- (16) Where a registered person has claimed a deduction in accordance with section 20(3) of this Act in respect of the supply of a dwelling, any subsequent supply by the registered person of—
- (a) The dwelling; or
  - (b) Any land or other part of the dwelling that has ceased or will by reason of the supply cease to be appurtenant to or enjoyed with the dwelling,—
- will, for the avoidance of doubt but subject to subsections (17), (18), and (19)(b) of this section, be deemed to be a taxable supply.
- (17) The supply of a dwelling shall, where that dwelling has been deemed to be supplied under section 21(1) of this Act and the consideration in money for the supply has been deemed under section 10(8) of this Act to be the lesser of the cost or open market value of the dwelling, not be deemed to be a taxable supply provided no deduction has subsequently been allowed under section 21F of this Act based on the lesser of the cost or open market value of that dwelling.
- (18) Where a registered person has claimed a deduction in accordance with section 20(3) of this Act in respect of a proportion of a dwelling, the supply of that dwelling shall be deemed to be a taxable supply only to the extent that the proportion claimed bears to the whole dwelling.
- (19) A registered person who has claimed a deduction in accordance with section 20(3) of this Act in respect of the supply of a dwelling that is not used by the person principally for the purpose of making taxable supplies may, by notification to the Commissioner in such form as the Commissioner may approve made before the 1st day of August 1996, elect to treat that dwelling as being supplied by the registered person in the taxable period in which that notification is given; in which case—
- (a) That supply will be treated by virtue of subsection (16) of this section as a taxable supply; but

- (b) Without prejudice to the application of any other provision of this Act, subsection (16) of this section will not apply to any subsequent supply of the dwelling by the registered person.
- (20) A supply of services to which section 11A(1)(ma) applies is treated as the only supply of services for the consideration provided by the warrantor.
- (21) If goods and services are provided under warranty, the supply of the goods and services is treated as a supply of services for the purpose of section 11A(1)(ma).

Subsection (2) was substituted, as from 22 June 1987, by section 3(1) Goods and Services Tax Amendment Act 1987 (1987 No 103).

Subsection (2) was substituted, as from 22 March 1989, by section 4(1) Goods and Services Tax Amendment Act (No 2) 1989 (1989 No 152).

Subsection (2) was amended, as from 1 April 2005, by section 139 Credit Contracts and Consumer Finance Act 2003 (2003 No 52) by omitting the words “, as defined in the Hire Purchase Act 1971,”. See sections 141 to 143 of that Act as to the transitional provisions.

In subsection (3) the words “, being goods and services in relation to which a deduction pursuant to section 20(3) of this Act has been made,” were omitted, as from 22 June 1987, by section 3(3) Goods and Services Tax Amendment Act 1987 (1987 No 103).

Subsection (3A) was inserted, as from 1 April 1988, by section 4(1) Goods and Services Tax Amendment Act 1988 (1988 No 7).

Subsection (3A) was repealed by section 86(1) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39) with application on 10 October 2000.

Subsection (6) was substituted, as from 1 July 1989, by section 86 Public Finance Act 1989 (1989 No 44).

Subsection (6) the words “in respect of an appropriation of public money” were omitted, as from 1 July 1989, by section 4(2) Goods and Services Tax Amendment Act (No 2) 1989 (1989 No 152).

Subsection (6) was substituted, as from 10 April 1995, by section 3(1) Goods and Services Tax Amendment Act 1995 (1995 No 22).

Subsection (6A) was inserted, as from 3 December 1985, by section 5(1) Goods and Services Tax Amendment Act 1986 (1986 No 43).

Section 5(6A): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Subsection (6A) was amended, as from 1 April 1987, by section 16(4) State Services Conditions of Employment Amendment Act 1987 (1987 No 17) by omitting the words “by the post office”

Subsection (6A) was amended, as from 1 October 1989, by section 116(4) Transit New Zealand Act 1989 (1989 No 75) by inserting the words “carried on by the person who collects the fees so paid”

Subsection (6A) was amended, as from 1 October 1989, by section 2(1) Goods and Services Tax Amendment Act (No 2) 1993 (1993 No 131) by substituting the words “carried on by the Ministry of Transport” for the words “carried on by the person who collects the fees so paid”

Subsection (6A) was amended, as from 10 April 1995, by section 3(2)(a) Goods and Services Tax Amendment Act 1995 (1995 No 22) by substituting the words “carried on by the Land Transport Safety Authority” for the words “carried on by the Ministry of Transport”.

Subsection (6A) was amended, as from 1 December 2004, by section 19(1) Land Transport Management Amendment Act 2004 (2004 No 97) by substituting the words “Land Transport New Zealand” for the words “the Land Transport Safety Authority”. *See* sections 20 to 22 of that Act as to the savings and transitional provisions.

Subsection (6AB) was inserted, as from 1 October 1986, by section 155 Taxation (Base Maintenance and Miscellaneous Provisions) Act 2005 (2005 No 79).

Subsection (6B) was inserted, as from 3 December 1985, by section 5(1) Goods and Service Tax Amendment Act 1986 (1986 No 43).

Subsection (6B) was substituted, as from 1 October 1989, by section 116(4) Transit New Zealand Act 1989 (1989 No 75).

Subsection (6B) was substituted, as from 26 April 1993, by section 3(1) Goods and Services Tax Amendment Act 1993 (1993 No 10), with respect to road user charges paid on or after that date.

Section 5(6B): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Subsection (6B) was amended, as from 10 April 1995, by section 3(2)(b) Goods and Services Tax Amendment Act 1995 (1995 No 22) by substituting the words “Land Transport Safety Authority” for the words “Ministry of Transport”.

Subsection (6B) was amended, as from 1 December 2004, by section 19(1) Land Transport Management Amendment Act 2004 (2004 No 97) by substituting the words “Land Transport New Zealand” for the words “the Land Transport Safety Authority”. *See* sections 20 to 22 of that Act as to the savings and transitional provisions.

Subsection (6C) was inserted, as from 28 July 1988, by section 3 Goods and Services Tax Amendment Act (No 3) 1988 (1988 No 125).

Subsection (6C) was amended, as from 10 April 1995, by section 3(2)(c) Goods and Services Tax Amendment Act 1995 (1995 No 22) by substituting the words “section 144 of the Electoral Act 1993” for the words “section 81 of the Electoral Act 1956”.

Subsection (6C) was amended, as from 10 April 1995, by section 3(2)(d) Goods and Services Tax Amendment Act 1995 (1995 No 22) by substituting the words “the said section 144” for the words “the said section 81”.

Subsection (6C) was amended, as from 1 October 1995, by section 10(3) Department of Justice (Restructuring) Act 1995 (1995 No 39) by substituting the words “the department of State that, with the authority of the Prime Minister, is for the time being responsible for the administration of the Electoral Act 1993” for the words “Department of Justice”.

Subsection (6C) was substituted, as from 1 July 2001, by section 151 Local Electoral Act 2001 (2001 No 35). *See* sections 153 to 157 of that Act as to the transitional provisions. *See* clause 2 Local Electoral Act Commencement Order 2001 (SR 2001/144).

Subsection (6C) was substituted, as from 28 February 2002, by section 102(1) Electoral Amendment Act 2002 (2002 No 1).

Subsection (6CA) was inserted, as from 28 February 2002, by section 102(1) Electoral Amendment Act 2002 (2002 No 1).

Subsections (6D) and (6E) were inserted, as from 1 October 1986, by section 2(1) Goods and Services Tax Amendment Act (No 3) 1991 (1991 No 48). *See* section 2(3) of that Act as to nothing in that amendment applying to any payment made on behalf of the Crown or by any public authority to any person to the extent that any objection has, before 19 December 1990, been lodged in respect of that particular payment pursuant to Part 5 of the principal Act by a person to whom or on whose behalf the payment was made.

Subsection (6E)(b)(i) was amended, as from 1 October 1998, by section 57 Social Security Amendment Act 1998 (1998 No 19) by omitting the words “Part 1 of”.

Section 5(6E)(b)(ii): amended, on 1 April 2008, by section ZA 2(1) of the Income Tax Act 2007 (2007 No 97).

Subsection (6E)(b)(ii) was amended, as from 1 April 1995, by section YB 1 Income Tax Act 1994 (1994 No 164) by substituting the words “paragraph (a) of the definition of that term in section OB 1 of the Income Tax Act 1994” for the words “section 2 of the Income Tax Act 1976”.

Subsection (6E)(b)(ii) was amended, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35) by substituting the words “paragraphs (c) and (d) of the definition of that term in section OB 1 of the Income Tax Act 2004” for the words “paragraph (a) of the definition of that term in section OB 1 of the Income Tax Act 1994”.

Subsection (6E)(b)(ii) was amended, as from 1 April 1995, by section YB 1 Income Tax Act 1994 (1994 No 164) by substituting the words “paragraph (a) of the definition of that term in section OB 1 of the Income Tax Act 1994” for the words “section 2 of the Income Tax Act 1976”.

Subsection (7)(a) was substituted, as from 3 December 1985, by section 5(2) Goods and Services Tax Amendment Act 1986 (1986 No 43).

Subsection (7)(a) proviso was amended by section 86(2) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39) by omitting the expression “533”, with application as from 10 October 2000.

Subsection (7)(a) proviso was repealed, as from 1 July 2003, by section 262 Local Government Act 2002 (2002 No 84). *See* sections 273 to 314 of that Act as to the savings and transitional provisions.

Subsection (7)(b) was substituted by section 86(3) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39), with application as from 1 November 1995.

Subsections (7B) and (7C) were inserted, as from 25 November 2003, by section 144(1) Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 (2003 No 122). *See* section 144(2) and (3) of that Act as

to their application under the Resource Management Act 1991 and the Local Government Act 2002.

Section 5(7D): inserted, on 17 September 2008, by section 36(2) of the Affordable Housing: Enabling Territorial Authorities Act 2008 (2008 No 67).

Section 5(7E): inserted, on 17 September 2008, by section 36(2) of the Affordable Housing: Enabling Territorial Authorities Act 2008 (2008 No 67).

Subsection (8)(a) was substituted, as from 19 December 1989, by section 4(3) Goods and Services Tax Amendment Act (No 2) 1989 (1989 No 152).

Subsection (8)(a)(iii) was amended by section 3(3)(a) Goods and Services Tax Amendment Act 1995 (1995 No 22) with application in respect of supplies made on or after 1 August 1992 by substituting the expression “(f) and (g)” for the expression “(e) and (f)”.

Subsection (8)(b)(i) was substituted, as from 19 December 1989, by section 4(4) Goods and Services Tax Amendment Act (No 2) 1989 (1989 No 152).

Subsection (8)(b)(i)(B) was amended by section 3(3)(b) Goods and Services Tax Amendment Act 1995 (1995 No 22) with application in respect of supplies made on or after 1 August 1992 by substituting the expression “(f) and (g)” for the expression “(e) and (f)”.

Subsection (8)(b)(ii) was amended, as from 19 December 1989, by section 4(5) Goods and Services Tax Amendment Act (No 2) 1989 (1989 No 152) by substituting the expression “sections 80A(2) ... and 99” for the expression “subsections (1) and (3) of section 43 and section 57A”.

Subsection (8)(b)(iv) was inserted, as from 15 December 1995, by section 2(2) Goods and Services Tax Amendment Act (No 4) 1995 (1995 No 83).

Subsection (8)(c) was amended by section 3(3)(c) Goods and Services Tax Amendment Act 1995 (1995 No 22) with application in respect of supplies made on or after 1 August 1992 by substituting the words “New Zealand Racing Industry Board” for the words “New Zealand Racing Authority”.

Subsection (8)(c)(i) was amended by section 3(3)(d) Goods and Services Tax Amendment Act 1995 (1995 No 22) with application in respect of supplies made on or after 1 August 1992 by substituting the words “sections 56, 57 and 57B” for the words “sections 56 and 57”.

Subsection (8)(c)(ii) was amended by section 3(3)(e) Goods and Services Tax Amendment Act 1995 (1995 No 22) with application in respect of supplies made on or after 1 August 1992 by substituting the words “sections 79 and 79A” for the expression “section 79”.

Subsection (8)(c)(iii) was inserted, as from 10 April 1995, by section 3(4) Goods and Services Tax Amendment Act 1995 (1995 No 22).

Subsection (8) was substituted, as from 15 December 1995, by section 2(1) Goods and Services Tax Amendment Act (No 3) 1995 (1995 No 80).

Subsection (8) was amended, as from 15 December 1995, by section 2(1) Goods and Services Tax Amendment Act (No 4) 1995 (1995 No 83) by inserting the words “or sporting event”.

Subsection (8) was substituted, as from 1 August 2003, by section 69(1) Racing Act 2003 (2003 No 3). *See* sections 71 to 81 of that Act as to the transitional provisions. *See* clause 2 Racing Act Commencement Order 2003 (SR 2003/134).

Subsection (9) was amended, as from 10 April 1995, by section 3(2)(d) Goods and Services Tax Amendment Act 1995 (1995 No 22) by inserting the words “; and the term **fixed-odds betting** has the same meaning as in Part 5A of the Racing Act 1971”.

Subsection (9) was substituted, as from 15 December 1995, by section 2(1) Goods and Services Tax Amendment Act (No 3) 1995 (1995 No 80).

Subsection (9) was repealed, as from 1 August 2003, by section 69(1) Racing Act 2003 (2003 No 3). *See* sections 71 to 81 of that Act as to the transitional provisions. *See* clause 2 Racing Act Commencement Order 2003 (SR 2003/134).

Subsection (10) was amended, as from 29 August 1991, in 2 places by section 17(1) Gaming and Lotteries Amendment Act (No 2) 1991 (1991 No 101) by inserting the words “New Zealand instant game,”.

Subsection (10) was substituted, as from 1 July 2004, by section 374 Gambling Act 2003 (2003 No 51). *See* sections 376 and 377 of that Act for the savings and transitional provisions. *See* clause 2(3) Gambling Act Commencement Order 2003 (SR 2003/384).

Subsection (11)(a) was amended, as from 1 June 1987, by section 11(1)(a) Gaming and Lotteries Amendment Act 1987 (1987 No 76) by omitting the words “New Zealand lottery,”.

Subsection (11)(aa) was inserted, as from 1 June 1987, by section 11(1)(b) Gaming and Lotteries Amendment Act 1987 (1987 No 76).

Subsection (11)(aa) was amended, as from 29 August 1991, by section 17(2) Gaming and Lotteries Amendment Act (No 2) 1991 (1991 No 101) by inserting the words “**New Zealand instant game**”.

Subsection (11)(d) was substituted, as from 1 June 1987, by section 11(1)(c) Gaming and Lotteries Amendment Act 1987 (1987 No 76).

Subsection (11) was substituted, as from 1 July 2004, by section 374 Gambling Act 2003 (2003 No 51). *See* sections 376 and 377 of that Act for the savings and transitional provisions. *See* clause 2(3) Gambling Act Commencement Order 2003 (SR 2003/384).

Subsection (11A) was inserted, as from 3 December 1985, by section 5(3) Goods and Services Tax Amendment Act 1986 (1986 No 43).

Subsection (11A) was repealed, as from 1 August 1990, by section 3(1) Goods and Services Tax Amendment Act 1990 (1990 No 64).

Subsection (11B) was inserted, as from 2 August 1990, by section 118(1) Casino Control Act 1990 (1990 No 62).

Subsection (11B) was substituted, as from 14 December 1992, by section 2(1) Goods and Services Tax Amendment Act 1992 (1992 No 116).

Subsection (11B) was substituted, as from 1 July 2004, by section 374 Gambling Act 2003 (2003 No 51). *See* sections 376 and 377 of that Act for the savings and transitional provisions. *See* clause 2(3) Gambling Act Commencement Order 2003 (SR 2003/384).

Subsection (11C) was inserted, as from 2 August 1990, by section 118(1) Casino Control Act 1990 (1990 No 62).

Subsection (11C) was amended, as from 14 December 1992, by section 2(2) Goods and Services Tax Amendment Act 1992 (1992 No 116) by substituting the words “and **casino operator** ... Gaming Duties Act 1971” for the words

“and **casino operator’s licence** means a casino operator’s licence issued under section 37 of that Act”.

Subsection (11C) was substituted, as from 1 July 2004, by section 374 Gambling Act 2003 (2003 No 51). *See* sections 376 and 377 of that Act for the savings and transitional provisions. *See* clause 2(3) Gambling Act Commencement Order 2003 (SR 2003/384).

Subsections (11D) to (11I) were inserted by section 86(4) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39), with application as from 10 October 2000.

Subsection (11D) was amended by section 62(1) Taxation (Beneficiary Income of Minors, Services-Related Payments and Remedial Matters) Act 2001 (2001 No 4) by substituting the words “services, other than a token, stamp or voucher issued for no consideration” for the word “services” with application as from 10 October 2000.

Subsection (11E) was amended by section 62(2) Taxation (Beneficiary Income of Minors, Services-Related Payments and Remedial Matters) Act 2001 (2001 No 4) by substituting the words “issue or sale” for the word “issue” with application as from 10 October 2000.

Subsection (11EA) was inserted by section 62(3) Taxation (Beneficiary Income of Minors, Services-Related Payments and Remedial Matters) Act 2001 (2001 No 4) with application as from 10 October 2000.

Subsection (11F) was substituted by section 62(4) Taxation (Beneficiary Income of Minors, Services-Related Payments and Remedial Matters) Act 2001 (2001 No 4) with application as from 10 October 2000.

Subsection (11G) was substituted, and subsection (11GA) was inserted, by section 62(4) Taxation (Beneficiary Income of Minors, Services-Related Payments and Remedial Matters) Act 2001 (2001 No 4) with application as from 10 October 2000.

Subsection (11G) was amended, by section 238(1)(a) Taxation (Taxpayer Assessment and Miscellaneous Provisions) Act 2001 (2001 No 85) by omitting, in the portion before para (a) the word “if”, with application as from 10 October 2000.

Subsection (11G)(a) was amended, by section 238(1)(b) Taxation (Taxpayer Assessment and Miscellaneous Provisions) Act 2001 (2001 No 85), by inserting the word “if” before the word “it”, with application as from 10 October 2000.

Subsection (11G)(b) was amended, by section 238(1)(c) Taxation (Taxpayer Assessment and Miscellaneous Provisions) Act 2001 (2001 No 85) by inserting the word “if” before the words “the supplier of the goods and services”, with application as from 10 October 2000.

Subsection (11I)(a) was substituted, as from 3 April 2006, by section 285(1) Taxation (Depreciation, Payment Dates Alignment, FBT, and Miscellaneous Provisions) Act 2006 (2006 No 3) with application for supplies made as from 3 April 2006.

Subsection (13) was amended, as from 3 December 1985, by section 5(4) Goods and Services Tax Amendment Act 1986 (1986 No 43) by inserting the words “performed on the day of receipt of that indemnity payment”.

Subsection (13)(b) was substituted, as from 19 December 1998, by section 416 Accident Insurance Act 1998 (1998 No 114).

Subsection (13) (that part before the proviso) was substituted by section 86(5) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39), with application as from 10 October 2000.

Subsection (13) proviso was substituted, as from 23 September 1987, by section 2(1) Goods and Services Tax Amendment Act (No 2) 1987 (1987 No 191).

Subsection (13) proviso was amended, as from 1 April 1992, by section 178 Accident Rehabilitation and Compensation Insurance Act 1992 (1992 No 13) by adding the words “or the Accident Compensation Act 1982”.

Subsection (13) proviso was amended by section 86(6) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39) by omitting the word “indemnity”, with application as from 10 October 2000.

Subsection (13) proviso was amended, as from 1 April 2002, by section 338 Injury Prevention, Rehabilitation, and Compensation Act 2001 (2001 No 49), by inserting, after the words “the Accident Insurance Act 1998”, the words “or the Injury Prevention, Rehabilitation, and Compensation Act 2001”. *See* Part 10 of that Act for provisions relating to transition from competitive provisions of workplace accident insurance. *See* Part 11 of that Act for transitional provisions relating to entitlements provided by Corporation.

Subsection (13A) was inserted, as from 3 December 1985, by section 5(6) Goods and Services Tax Amendment Act 1986 (1986 No 43).

Subsection (13A) was substituted, as from 1 October 1989, by section 116(4) Transit New Zealand Act 1989 (1989 No 75).

Subsection (13A) was amended, as from 1 July 1996, by section 29 Transit New Zealand Amendment Act 1995 (1995 No 42) by substituting the words “Crown Bank Account” for the words “Land Transport Fund”.

Subsection (13A) was substituted, as from 13 November 2003, by section 90 Land Transport Management Act 2003 (2003 No 118).

Subsection (13B) was inserted by section 52(1) Taxation (Remedial Provisions) Act 1996 (1996 No 159) with application to supplies made as from 1 October 1986. *See* section 52(2) and (3) of that Act as to its application.

Subsection (13B)(b) was substituted by section 86(8) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39) with application as from 10 October 2000.

Subsection (14) was substituted by section 86(9) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39) by omitting the word “indemnity”, with application as from 10 October 2000.

Subsection (14) was amended, as from 1 July 2003, by section 153 Taxation (Maori Organisations, Taxpayer Compliance and Miscellaneous Provisions) Act 2003 (2003 No 5) by inserting the expression “, 11AB” after the expression “11A”.

Subsection (14B) was inserted, as from 3 April 2006, by section 285(2) Taxation (Depreciation, Payment Dates Alignment, FBT, and Miscellaneous Provisions) Act 2006 (2006 No 3) with application for supplies of financial services made as from 3 April 2006.

Subsections (15) and (16) were inserted by section 3(1) Goods and Services Tax Amendment Act (No 2) 1995 (1995 No 75). *See* section 3(2) of that Act as to the application of this amendment to any supplies made as from 11 August

1995, and section 3(3) of that Act as to the application of this amendment with respect to a supply made to a registered person under an unconditional contract entered into before the 11th day of August 1995.

Subsection (17) was amended by section 86(10) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39) by substituting the words “section 21F” for the words “section 21(5) of this Act”, with application as from 10 October 2000.

Subsections (18) and (19) were inserted by section 3(1) Goods and Services Tax Amendment Act (No 2) 1995 (1995 No 75). *See* section 3(2) of that Act as to the application of this amendment to any supplies made as from 11 August 1995, and section 3(3) of that Act as to the application of this amendment with respect to a supply made to a registered person under an unconditional contract entered into before the 11th day of August 1995.

Subsections (20) and (21) were inserted by section 98(1) Taxation (Relief, Refunds and Miscellaneous Provisions) Act 2002 (2002 No 32) with application as from 1 August 2002.

## **5B Supply of certain imported services**

For the purpose of the definition of output tax and sections 8(1), 15, 15A, 19A, 20(4), 20B, 25AA, 51, 52, 57, 75, 76(6), 78B, 78BA and 78C, a supply of services that is treated by section 8(4B) as being made in New Zealand is treated as being made by the recipient of the supply in the course or furtherance of a taxable activity carried on by the recipient.

Section 5B was inserted, as from 1 January 2005, by section 145 Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 *See* clause 2 Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act Commencement Order 2004 (SR 2004/226).

## **6 Meaning of term taxable activity**

- (1) For the purposes of this Act, the term **taxable activity** means—
- (a) Any activity which is carried on continuously or regularly by any person, whether or not for a pecuniary profit, and involves or is intended to involve, in whole or in part, the supply of goods and services to any other person for a consideration; and includes any such activity carried on in the form of a business, trade, manufacture, profession, vocation, association, or club:
  - (b) Without limiting the generality of paragraph (a) of this subsection, the activities of any public authority or any local authority.

- (2) Anything done in connection with the beginning or ending, including a premature ending, of a taxable activity is treated as being carried out in the course or furtherance of the taxable activity.
- (3) Notwithstanding anything in subsections (1) and (2) of this section, for the purposes of this Act the term **taxable activity** shall not include, in relation to any person,—
- (a) Being a natural person, any activity carried on essentially as a private recreational pursuit or hobby; or
  - (aa) Not being a natural person, any activity which, if it were carried on by a natural person, would be carried on essentially as a private recreational pursuit or hobby; or
  - (b) Any engagement, occupation, or employment under any contract of service or as a director of a company:  
Provided that where any person, in carrying on any taxable activity, accepts any office, any services supplied by that person as the holder of that office shall be deemed to be supplied in the course or furtherance of that taxable activity; or
  - (c) Any engagement, occupation, or employment—
    - (i) Pursuant to the Civil List Act 1979:
    - (ii) As a Judge, Solicitor-General, Controller and Auditor-General, or Ombudsman:
    - (iia) Pursuant to an appointment made by the Governor-General or the Governor-General in Council and evidenced by a warrant or by an Order in Council or by a notice published in the *Gazette* in accordance with section 2(2) of the Official Appointments and Documents Act 1919:
    - (iii) As a Chairman or member of any local authority or any statutory board, council, committee, or other body; or
  - (d) Any activity to the extent to which the activity involves the making of exempt supplies.

Subsection (1)(b) was amended, as from 3 December 1985, by section 6 Goods and Services Tax Amendment Act 1986 (1986 No 43) by inserting the words “without limiting the generality of paragraph (a) of this subsection,”.

Subsection (2) was substituted by section 87(1) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39), with application as from 10 October 2000.

Subsection (3)(a) was amended, as from 3 December 1985, by section 5(1) Goods and Services Tax Amendment Act 1988 (1988 No 7) by inserting the words “Being a natural person,”.

Subsection (3)(aa) and (c)(ia) were inserted, as from 3 December 1985, by section 5 Goods and Services Tax Amendment Act 1988 (1988 No 7).

## **7 Act to bind Crown**

This Act shall bind the Crown.

## **Part 2 Imposition of tax**

### **8 Imposition of goods and services tax on supply**

- (1) Subject to this Act, a tax, to be known as goods and services tax, shall be charged in accordance with the provisions of this Act at the rate of 12.5 percent on the supply (but not including an exempt supply) in New Zealand of goods and services, on or after the 1st day of October 1986, by a registered person in the course or furtherance of a taxable activity carried on by that person, by reference to the value of that supply.
- (2) For the purposes of this Act, goods and services shall be deemed to be supplied in New Zealand if the supplier is resident in New Zealand, and shall be deemed to be supplied outside New Zealand if the supplier is a non-resident:  
*[Repealed]*
- (3) Despite subsection (2), goods and services are treated as being supplied in New Zealand if the supplier is a non-resident and either—
  - (a) the goods are in New Zealand at the time of the supply;  
or
  - (b) the services are physically performed in New Zealand by a person who is in New Zealand at the time the services are performed.
- (4) Despite subsection (3), if a supplier who is a non-resident supplies goods and services, to which subsection (3) would apply but for this subsection, to a registered person for the purposes of carrying on the registered person’s taxable activity, the goods and services are treated as being supplied outside New Zealand unless the supplier and the recipient of the supply agree that this subsection will not apply to the supply.

- (4B) Despite subsection (2), a supply of services that is not treated as being made in New Zealand by subsections (3)(b) and (4) is treated as being made in New Zealand if—
- (a) the services are supplied by a non-resident to a resident; and
  - (b) the recipient of the supply—
    - (i) does not, in the 12-month period that ends with the month in which the supply of the services is made, make supplies of which at least 95% in total value are taxable supplies; and
    - (ii) does not at the time of the supply have reasonable grounds for believing that the recipient of the supply will, in the 12-month period that begins with the month in which the supply of the services is made, make supplies of which at least 95% in total value are taxable supplies; and
  - (c) the supply would be a taxable supply if made in New Zealand by a registered person in the course or furtherance of a taxable activity carried on by the registered person.
- (4C) An allocation of costs by a non-resident to a resident is treated as being a supply of services that satisfies section 8(4B)(a) and (c), and the amount provided to the non-resident by the resident under the allocation is treated as being the consideration for the supply.
- (5) Subsections (3), (4) and (4B) do not apply to supplies of telecommunications services.
- (6) Despite subsection (2), telecommunications services are treated as being supplied in New Zealand if the supplier is a non-resident and a person, physically in New Zealand, initiates the supply from a telecommunications supplier, whether or not the person initiates the supply on behalf of another person.
- (7) Subsection (6) does not apply to supplies made between telecommunications suppliers.
- (8) Despite subsection (6) and section 8A, telecommunications services supplied by a non-resident to a registered person for the purposes of carrying on the registered person's taxable activity are treated as being supplied outside New Zealand un-

less the supplier and the recipient of the services agree that this subsection will not apply to the supply.

- (9) For the purposes of subsection (6) and section 11AB, the person who initiates a supply of telecommunications services is the person who—
- (a) is identified by the supplier of the services as being—
    - (i) the person who controls the commencement of the supply:
    - (ii) the person who pays for the services:
    - (iii) the person who contracts for the supply; and
  - (b) if more than 1 person satisfies paragraph (a), is the person who appears highest on the list in that paragraph.

Subsection (1) was amended, as from 1 July 1989, by section 15(1) Finance Act 1989 (1989 No 13) by substituting the expression “12.5 percent” for the expression “10 percent”.

Subsection (2) was amended, as from 25 November 2003, by section 146(1) Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 (2003 No 122) by substituting the words “a non-resident” for the words “not resident in New Zealand”.

Subsection (2) proviso was repealed, as from 1 July 2003, by section 154 Taxation (Maori Organisations, Taxpayer Compliance and Miscellaneous Provisions) Act 2003 (2003 No 5).

Subsection (3) was inserted, as from 1 July 2003, by section 154 Taxation (Maori Organisations, Taxpayer Compliance and Miscellaneous Provisions) Act 2003 (2003 No 5).

Subsection (3) was amended, as from 25 November 2003, by section 146(1) Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 (2003 No 122) by substituting the words “a non-resident” for the words “not resident in New Zealand”.

Subsection (4) was inserted, as from 1 July 2003, by section 154 Taxation (Maori Organisations, Taxpayer Compliance and Miscellaneous Provisions) Act 2003 (2003 No 5).

Subsection (4) was amended, as from 25 November 2003, by section 146(1) Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 (2003 No 122) by substituting the words “a non-resident” for the words “not resident in New Zealand”.

Subsections (4B) and (4C) were inserted, as from 1 January 2005, by section 146(2) Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 (2003 No 122) *See* clause 2 Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act Commencement Order 2004 (SR 2004/226).

Subsection (5) was inserted, as from 1 July 2003, by section 154 Taxation (Maori Organisations, Taxpayer Compliance and Miscellaneous Provisions) Act 2003 (2003 No 5).

Subsection (5) was amended, as from 1 January 2005, by section 146(3) Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 (2003 No 122) by substituting the words “Subsections (3), (4) and (4B)” for the words “Subsections (3) and (4)”. *See* clause 2 Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act Commencement Order 2004 (SR 2004/226).

Subsection (6) was inserted, as from 1 July 2003, by section 154 Taxation (Maori Organisations, Taxpayer Compliance and Miscellaneous Provisions) Act 2003 (2003 No 5).

Subsection (6) was amended, as from 25 November 2003 by section 146(4) Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 (2003 No 122) by substituting the words “a non-resident” for the words “not resident in New Zealand”.

Subsections (7) and (8) were inserted, as from 1 July 2003, by section 154 Taxation (Maori Organisations, Taxpayer Compliance and Miscellaneous Provisions) Act 2003 (2003 No 5).

Subsection (8) was amended, as from 25 November 2003 by section 146(5) Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 (2003 No 122) by substituting the words “a non-resident” for the words “a telecommunications supplier who is not resident in New Zealand”.

Subsection (9) was inserted, as from 1 July 2003, by section 154 Taxation (Maori Organisations, Taxpayer Compliance and Miscellaneous Provisions) Act 2003 (2003 No 5).

Subsection (9) was substituted, as from 25 November 2003 by section 146(6) Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 (2003 No 122).

## **8A Certain supplies of telecommunications services**

- (1) Despite section 8(2), if a telecommunications supplier cannot apply section 8(6) because it is impractical for the supplier to determine the physical location of a person due to the type of service or to the class of customer to which the person belongs, the supplier must treat a supply of telecommunications services as being supplied in New Zealand if the person’s address for receiving invoices from the supplier is in New Zealand.
- (2) Subsection (1) does not apply to supplies made between telecommunications suppliers.
- (3) If subsection (1) applies, the telecommunications supplier must satisfy subsection (1) for all supplies of telecommunications services made for the type of service or the class of customer.

- (4) In this section, **address** means the physical residential or business address of a person to which invoices are sent, and does not include a post office box number.

Section 8A was inserted, as from 1 July 2003, by section 155 Taxation (Maori Organisations, Taxpayer Compliance and Miscellaneous Provisions) Act 2003 (2003 No 5).

## 9 Time of supply

- (1) Subject to this Act, for the purposes of this Act a supply of goods and services shall be deemed to take place at the earlier of the time an invoice is issued by the supplier or the recipient or the time any payment is received by the supplier, in respect of that supply.
- (2) Notwithstanding anything in subsection (1) of this section, a supply of goods and services shall be deemed to take place—
- (a) if the supply is an associated supply,—
- (i) In the case of a supply of goods which are to be removed, at the time of the removal; and
- (ii) In the case of a supply of goods which are not to be removed, at the time when they are made available to the recipient; and
- (iii) In the case of a supply of services, at the time the services are performed, unless subparagraph (iv) applies; and
- (iv) in the case of a supply of services that is treated by section 8(4B) as being made in New Zealand, at the end of the taxable period that includes the date that is 2 months after the first balance date of the recipient that follows the completion of the performance of the services:
- Provided that this paragraph shall not apply in any case where an invoice is issued, or any payment is made, in respect of that supply, on or before the last day for furnishing the return in relation to the taxable period during which, but for this proviso, that supply would have been made:
- (b) Where that supply is a supply to which section 5(4) of this Act refers, on the day after the last day of the period during which the recipient may exercise the right under

- section 7 of the Door to Door Sales Act 1967 to cancel the agreement:
- (c) Where that supply is a supply to which section 5(5) of this Act refers, at the time at which the property in the goods is transferred to the recipient:  
Provided that in any case in which a supply of services is deemed to take place pursuant to the proviso to that subsection, that supply of services shall be deemed to take place at the time that the layby sale is cancelled pursuant to the Layby Sales Act 1971:
  - (d) Where that supply is deemed to be made pursuant to section 5(8) of this Act, when and to the extent that the amount of the money is dealt with as specified in that section:
  - (e) if the supply is treated as having been made under section 5(10) on the date on which the first drawing or determination of a result of the gambling (including a New Zealand lottery) commences, provided that this paragraph does not apply to an instant game that is a **New Zealand lottery** or **gambling** played by means of a gaming machine (as those terms are defined in section 4(1) of the Gambling Act 2003):
  - (f) Where the supply is for a consideration in money received by the supplier by means of any machine, meter, or other device operated by a coin or token, at the time any such coin or token is taken from that machine, meter, or other device by or on behalf of the supplier:
  - (g) if the supply is treated as having been made under section 5(11B) at the time a casino count takes place.
- (2A) Despite subsection (1), a supply to which section 5(11G) applies is treated as taking place at the time the token, stamp or voucher is redeemed.
- (2B) If section 5(11H) applies, the excess consideration is treated as consideration in money for a supply that takes place at the time the token, stamp or voucher is issued.
- (3) Notwithstanding anything in subsection (1) or subsection (2) of this section,—
- (a) Where goods are supplied under an agreement to hire, or where services are supplied under any agreement or

enactment which provides for periodic payments, they shall be deemed to be successively supplied for successive parts of the period of the agreement or the enactment, and each of the successive supplies shall be deemed to take place when a payment becomes due or is received, whichever is the earlier:

- (aa) Where and to the extent that—
- (i) Goods are supplied progressively or periodically pursuant to any agreement or enactment which provides for the consideration for that supply to be paid in instalments or periodically and in relation to the periodic or progressive supply of those goods; or
  - (ii) Goods and services supplied directly in the construction, major reconstruction, manufacture, or extension of a building or an engineering work are supplied pursuant to any agreement or enactment which provides for the consideration for that supply to become due and payable in instalments or periodically in relation to the progressive nature of that construction, manufacture, or extension—
- those goods and services shall be deemed to be successively supplied, and each such successive supply shall be deemed to take place whenever any payment in respect of any supply becomes due, is received, or any invoice relating only to that payment is issued, whichever is the earlier:
- (b) Where goods and services are supplied under a hire purchase agreement, that supply shall be deemed to take place at the time the agreement is entered into:
- (c) For the purposes of this subsection, the term **agreement to hire** means an agreement for the bailment of goods for hire and includes a lease of goods and a rental agreement; but does not include—
- (i) An agreement under which the property in the goods passes to the bailee or which expressly contemplates that the property in the goods will pass to the bailee; or

- (ii) A hire purchase agreement.
- (4)
- (5)
- (6) Subject to subsection (2)(a) of this section and s 21C, where goods are supplied under an agreement, other than an agreement to hire (as defined in subsection (3)(c) of this section), and the goods or part of them are appropriated under that agreement by the recipient in circumstances where the whole of the consideration is not determined at the time they are appropriated, that supply shall be deemed to take place when and to the extent that any payment under the agreement is due or is received or an invoice relating to the supply is issued by the supplier or the recipient, whichever is the earlier.
- (7) Notwithstanding anything in this section, where any public authority is deemed to have supplied goods and services pursuant to section 5(6) of this Act, the supply shall, to the extent that the supply is brought to charge as revenue from the Crown, be deemed to take place in the taxable period in which the bringing to charge applies.
- (8) Despite subsection (1), if a local authority makes a supply to which section 5(7)(a) applies, the supply is treated as taking place on the earlier of the following dates:
- (a) the date on which an instalment notice is issued if the instalment notice requires payment of an instalment by a particular date:
  - (b) the date on which payment is required by the instalment notice:
  - (c) the date on which payment is received

Subsection (1) was amended, as from 24 March 1988, by section 6(1) Goods and Services Tax Amendment Act 1988 (1988 No 7) by inserting the words “or the recipient”.

Subsection (2)(a) (the words before subpara (i)) were substituted, as from 3 April 2006, by section 286 Taxation (Depreciation, Payment Dates Alignment, FBT, and Miscellaneous Provisions) Act 2006 (2006 No 3).

Subsection (2)(a)(iii) was amended, as from 1 January 2005, by section 147 Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 by substituting the words “performed, unless subparagraph (iv) applies; and” for the expression “performed:”. See clause 2 Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act Commencement Order 2004 (SR 2004/226).

Subsection (2)(a)(iv) was inserted, as from 1 January 2005, by section 147 Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003. *See* clause 2 Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act Commencement Order 2004 (SR 2004/226).

Subsection (2)(d) was substituted, as from 3 December 1985, by section 7(1) Goods and Services Tax Amendment Act 1986 (1986 No 43).

In subsection (2)(e) the words “New Zealand instant game, or to any” were inserted, as from 29 August 1991, by section 17(3) Gaming and Lotteries Amendment Act (No 2) 1991 (1991 No 101).

Subsection (2)(e) was substituted, as from 1 July 2004, by section 374 Gambling Act 2003 (2003 No 51). *See* sections 376 and 377 of that Act for the savings and transitional provisions. *See* clause 2(3) Gambling Act Commencement Order 2003 (SR 2003/384).

Subsection (2)(g) was inserted, as from 2 August 1990, by section 118(2) Casino Control Act 1990 (1990 No 62).

Subsection (2)(g) was substituted, as from 1 July 2004, by section 374 Gambling Act 2003 (2003 No 51). *See* sections 376 and 377 of that Act for the savings and transitional provisions. *See* clause 2(3) Gambling Act Commencement Order 2003 (SR 2003/384).

Subsections (2A) and (2B) were inserted by section 88(1) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39), with application as from 10 October 2000.

Subsection (3)(a) was amended, as from 3 December 1985, by section 7(2)(a) and (b) Goods and Services Tax Amendment Act 1986 (1986 No 43) by inserting the words “or enactment” and “or the enactment”.

Subsection (3)(aa) was inserted, as from 3 December 1985, by section 7(3) Goods and Services Tax Amendment Act 1986 (1986 No 43).

Subsection (3)(aa)(ii) was amended, as from 19 December 1989, by section 5 Goods and Services Tax Amendment Act (No 2) 1989 (1989 No 152) by substituting the word “an” for the words “a civil”.

Subsection (3)(b) and (c)(i) were amended, as from 1 December 1985, by section 7(4)(a) and (b) respectively, of the Goods and Services Tax Amendment Act 1986 (1986 No 43) by inserting the words “and services” and “or which ... the bailee”.

Subsection (3)(b) and (c)(ii) was amended, as from 1 April 2005, by section 139 Credit Contracts and Consumer Finance Act 2003 (2003 No 52) by omitting the words “(as defined in the Hire Purchase Act 1971)”. *See* sections 141 to 143 of that Act as to the transitional provisions.

Subsections (4) and (5) were repealed, as from 3 December 1985, by section 7(5) of the Goods and Services Tax Amendment Act 1986 (1986 No 43).

Subsection (6) was amended, as from 24 March 1988, by section 6(2) Goods and Services Tax Amendment Act 1988 (1988 No 7) by inserting the words “or the recipient”.

Subsection (6) was amended by section 88(2) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39) by substituting the words “section 21C” for the words “section 21(2) of this Act”, with application as from 10 October 2000.

Subsection (7) was inserted, as from 1 July 1989, by section 86 Public Finance Act 1989 (1989 No 44).

Subsection (7) was amended, as from 10 April 1995, by section 4 Goods and Services Tax Amendment Act 1995 (1995 No 22) by omitting the words “paragraph (b) of”.

Subsection (8) was inserted by section 88(3) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39), with application as from 10 October 2000.

## **10 Value of supply of goods and services**

- (1) For the purposes of this Act the following provisions of this section shall apply for determining the value of any supply of goods and services.
- (2) Subject to this section, the value of a supply of goods and services shall be such amount as, with the addition of the tax charged, is equal to the aggregate of,—
  - (a) To the extent that the consideration for the supply is consideration in money, the amount of the money;
  - (b) To the extent that the consideration for the supply is not consideration in money, the open market value of that consideration.
- (3) Subject to subsections (3A), (3AB), (3B), (3C), (3D) and (8), the consideration for a supply is treated as being the open market value of the supply if—
  - (a) the supply is made by a person for no consideration or for a consideration that is less than the open market value of the supply; and
  - (b) the supply is an associated supply; and
  - (c) the supply is not a fringe benefit that the supplier has, or is deemed to have, provided or granted under the FBT rules of the Income Tax Act 2007 to the recipient, being a person employed under a contract of service by the supplier.
- (3A) Subsection (3) does not apply to a supply if—
  - (a) the recipient acquired the supply for the principal purpose of making taxable supplies; and
  - (b) the recipient is entitled to make a deduction under section 20(3) in respect of the supply, or would be entitled to make such a deduction if—

- (i) the amount of the deduction were determined under section 3A(3)(e) instead of under section 3A(3)(a):
    - (ii) there were consideration for the supply:
    - (iii) the supplier were a registered person who had complied with the requirements of the Act; and
  - (c) the supply is not a supply of financial services to which subsection (3B) applies.
- (3AB) Subsection (3) does not apply to a supply of goods and services if the recipient—
- (a) acquires the supply for no consideration; and
  - (b) from the time of the supply, applies the goods and services for the purpose of making taxable supplies.
- (3B) If a supply of financial services is charged with tax at a rate of 0% under section 11A(1)(q) or (r) or gives rise to a deduction for the supplier under section 20C—
- (a) subsection (3) does not apply to the supply; and
  - (b) the consideration for the supply is treated as being the open market value of the supply if—
    - (i) the supply is made by a person for consideration that is more than the open market value of the supply; and
    - (ii) the supplier and the recipient are associated persons.
- (3C) Subsection (3) does not apply to a supply of services that is treated by section 8(4B) as being made in New Zealand if—
- (a) the amount of the consideration for the supply is a deduction under the Income Tax Act 2007 for the recipient of the supply; or
  - (b) the amount of the consideration for the supply would have been a deduction under the Income Tax Act 2007 for the recipient of the supply if the recipient had given any consideration for the supply.
- (3D) Subsection (3) does not apply to a supply of services that is treated by section 8(4B) as being made in New Zealand if—
- (a) the recipient of the supply is a branch or division that is treated by section 56B as being a separate person; and

- (b) the amount of the consideration for the supply would have been a deduction under the Income Tax Act 2007 for the branch or division if—
    - (i) the branch or division were entitled to deductions under the Income Tax Act 2007:
    - (ii) the branch or division had given any consideration for the supply.
- (3E) The value of a supply of services that is treated by section 8(4B) as being made in New Zealand is the amount that, before the addition of the tax charged, is equal to the amount of the consideration for the supply.
- (4) Where any supply of goods is a supply which would, but for section 11(3), be charged with tax at the rate of zero percent, the consideration in money for that supply shall be deemed to be an amount equal to the purchase price of those goods to the supplier:

Provided that in any case where the deduction of input tax referred to in that proviso has been made by any other person (where that supplier and that other person are associated persons), the consideration in money for that supply shall be deemed to be an amount equal to the purchase price of those goods to that other person:

Provided further that for the purposes of this subsection, the purchase price of any goods shall not be reduced by any amount of input tax deducted by the supplier or, as the case may be, any other person where the supplier and that other person are associated persons, pursuant to section 20(3) of this Act.
- (5) Despite subsection (2), if a supply of goods and services is made under a credit contract, the consideration in money for the supply is treated as being the higher of the cash price of the goods and services and the price the supplier would have charged the purchaser if the purchaser had paid in full at the time the credit contract was entered into.
- (5A) In subsection (5),—

**cash price** has the same meaning as in section 5 of the Credit Contracts and Consumer Finance Act 2003

**credit contract** has the same meaning as in section 3 of the Credit Contracts Act 1981 immediately before the repeal of that Act

credit contract: this definition was substituted, as from 1 April 2005, by section 287(4) Taxation (Depreciation, Payment Dates Alignment, FBT, and Miscellaneous Provisions) Act 2006 (2006 No 3).

- (5B) Despite subsection (5A), a person who is a party to an arrangement that is a credit contract but is not a credit contract under section 7 of the Credit Contracts and Consumer Finance Act 2003 may elect that the arrangement be treated under this section as not being a credit contract in relation to the person.
- (5C) Despite subsection (5A), a person who is a party to an arrangement that is not a credit contract but is a credit contract under section 7 of the Credit Contracts and Consumer Finance Act 2003 may elect that the arrangement be treated under this section as being a credit contract in relation to the person.
- (6) Where and to the extent that any supply of goods and services consists of the supply, to any individual, of domestic goods and services in a commercial dwelling, the value attributable to that part of that supply of domestic goods and services that is for a period in excess of 4 weeks shall be deemed to be reduced to an amount equal to 60 percent of the amount that would, if that part of that supply were chargeable with tax at the rate of 7.5 percent, be the value of that part of that supply of domestic goods and services:

Provided that to the extent that any supply is a supply of domestic goods and services, and where that commercial dwelling is a residential establishment, and where the supplier and the recipient have agreed that that supply shall be for a period of or in excess of 4 weeks, or for a number of periods which in the aggregate will exceed 4 weeks, the value attributable to that supply of domestic goods and services shall, from the commencement of that supply, be deemed to be reduced to an amount equal to 60 percent of the amount that would, if that supply were chargeable with tax at the rate of 7.5 percent, be the value of that supply of domestic goods and services.

- (7) If goods and services are treated by section 21I(1) as being supplied by a person, the consideration in money for the supply is—
- (a) an amount equal to the taxable value of the fringe benefit as determined by sections CX 20, and RD 54 to RD 57 of the Income Tax Act 2007, if paragraph (b) does not apply; or
  - (b) nil, if the person would not have a deduction under section 20(3) relating to the supply of the fringe benefit if the consideration in money for the supply were given by paragraph (a).
- (7A) If goods and services are deemed to be supplied by a person under section 5(3), the consideration in money for the supply is treated as being the open market value of the supply.
- (8) Where goods and services are deemed to be supplied by a person under section 5(3) and the goods and services were acquired before 1 October 1986 or, where goods and services are treated as being supplied under section 21, the consideration in money for either supply shall be deemed to be the lesser of—
- (a) The cost of those goods and services to the supplier, including any input tax deduction claimed in respect of the supply of those goods and services to that supplier:
  - (b) The open market value of that supply.
- (9) Where a supply of services is deemed to be made under the proviso to section 5(5) of this Act, the consideration in money for the supply shall be deemed to be an amount equal to the amount referred to in paragraph (b) of that proviso as being retained or recoverable.
- (10) Notwithstanding anything in this section, where goods and services are, or are deemed to be, supplied by any public authority pursuant to section 5(6) of this Act, the value of any such supply shall be an amount equal to any amount that is brought to charge as revenue from the Crown for the supply of outputs by the public authority.
- (11) Notwithstanding anything in this section, where goods and services are, or are deemed to be, supplied to any person by any local authority pursuant to section 5(7) of this Act, the consideration in money for any such supply shall be an amount

equal to any amount from time to time paid or payable by or on behalf of that person for that supply.

- (12) The consideration in money for the supply of services for—
- (a) racing betting or sports betting is treated as the amount received by the New Zealand Racing Board or its agents, plus the net return of bets laid off by the Board less the sum of all refunds and winning dividends; and
  - (b) equalisator betting is treated as the amount received by a racing club.
- (12A)
- (13) In section 12, **equalisator betting**, **New Zealand Racing Board**, **racing club**, **racing betting**, and **sports betting** have the meanings set out in section 5 of the Racing Act 2003.
- (14) If a supply of services is treated as having been made under section 5(10), the consideration in money for the supply is the portion of the amount in money a person pays to participate in the gambling (including a New Zealand lottery) that represents the total proceeds (after deducting the amount of all prizes paid and payable in money) in respect of the gambling.
- (15) For the purposes of subsection (14), the terms **gambling** and **New Zealand lottery** have the meanings set out in section 4(1) of the Gambling Act 2003.
- (15A) If a supply is treated as having been made under section 5(11B), the consideration in money for the supply (less any amount paid out by the casino as winnings in respect of gambling or for the redemption of chips) must be treated—
- (a) as the amount of money (including cheques not collected) a person pays to the casino to purchase a chip or otherwise to participate in gambling played or conducted at a casino venue; or
  - (b) as commission for participation in the gambling.
- (15B) For the purposes of subsection (15A), the terms **casino venue**, **chip**, and **gambling** have the meanings set out in section 4(1) of the Gambling Act 2003.
- (15C) If a non-resident makes a supply of services to a resident who is a member of the same group of companies under section IA 6 of the Income Tax Act 2007 as the supplier, or who is treated by section 56B as being a separate person from the

supplier, and the supply is treated by sections 5B and 8(4B) as being made in New Zealand by the recipient of the supply, the value of the supply is determined as if the consideration for the supply did not include—

- (a) the amount of the consideration for the supply that represents salary or wages paid to an employee of—
  - (i) the non-resident:
  - (ii) a company that is in a wholly-owned group with the non-resident under section IA 6 of the Income Tax Act 2007; and
- (b) the amount of the consideration for the supply that represents interest incurred by—
  - (i) the non-resident:
  - (ii) a company that is in a wholly-owned group with the non-resident under section IA 6 of the Income Tax Act 2007.

(16)

(16A)

(17)

(17A)

(18) Where a taxable supply is not the only matter to which a consideration relates, the supply shall be deemed to be for such part of the consideration as is properly attributable to it.

(19) Subject to the foregoing provisions of this section where any supply is made for no consideration, the value of that supply shall be nil.

(20)

Subsection (2)(b) was amended, as from 3 December 1985, by section 8(1) Goods and Services Tax Amendment Act 1986 (1986 No 43) by omitting the words “together with any tax charged in respect of that supply”.

Subsection (3) was amended, from 3 December 1985, by section 3(2) Goods and Services Tax Amendment Act 1986 (1986 No 43).

Subsection (3) was substituted, as from 1 April 1989, by section 3(1) Goods and Services Tax Amendment Act 1989 (1989 No 8).

Subsection (3) was amended, as from 1 January 2005, by section 148(1) Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 (2003 No 122) by substituting the expression “subsections (3A), (3B), (3C), (3D)” for the expression “subsections (3A)”. See clause 2 Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act Commencement Order 2004 (SR 2004/226).

Subsection (3) (before paragraph (a)) was amended, as from 3 April 2006, by section 287(1) Taxation (Depreciation, Payment Dates Alignment, FBT, and Miscellaneous Provisions) Act 2006 (2006 No 3) by inserting the expression “(3AB),” after the expression “subsections (3A),” with application for supplies made as from 1 October 1986.

Subsection (3)(b) was substituted, as from 3 April 2006, by section 287(2) Taxation (Depreciation, Payment Dates Alignment, FBT, and Miscellaneous Provisions) Act 2006 (2006 No 3).

Section 10(3)(c): amended, on 1 April 2008, by section ZA 2(1) of the Income Tax Act 2007 (2007 No 97).

Subsection (3)(c) was amended, as from 1 April 1995, by section YB 1 Income Tax Act 1994 (1994 No 164) by substituting the words “the FBT rules of the Income Tax Act 1994” for the words “Part 10B of the Income Tax Act 1976”.

Subsection (3)(c) was amended, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35) by substituting the words “Income Tax Act 2004” for the words “Income Tax Act 1994”.

Subsection (3A) was inserted, as from 3 December 1985, by section 3(3) Goods and Services Tax Amendment Act 1986 (1986 No 43).

Subsection (3A) was substituted, as from 19 December 1989, by section 3(3) Goods and Services Tax Amendment Act 1986 (1986 No 43) by section 6(1) Goods and Services Tax Amendment Act (No 2) 1989 (1989 No 152).

Subsection (3A) was amended by section 89(2)(a) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39) by substituting the word “person” for the words “registered person”, with application as from 10 October 2000.

Subsection (3A)(b) was substituted by section 89(2)(b) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39), with application as from 10 October 2000.

Subsection (3A) was substituted, as from 1 January 2005, by section 148(2) Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 (2003 No 122). *See* clause 2 Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act Commencement Order 2004 (SR 2004/226).

Subsection (3AB) was inserted, as from 3 April 2006, by section 287(3) Taxation (Depreciation, Payment Dates Alignment, FBT, and Miscellaneous Provisions) Act 2006 (2006 No 3) with application for supplies made as from 1 October 1986.

Subsections (3B) to (3F) were inserted, as from 1 January 2005, by section 148(2) Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 (2003 No 122). *See* clause 2 Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act Commencement Order 2004 (SR 2004/226).

Subsection (3C) was amended, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35) by substituting the words “Income Tax Act 2004” for the words “Income Tax Act 1994” wherever they appear.

Section 10(3C)(a): amended, on 1 April 2008, by section ZA 2(1) of the Income Tax Act 2007 (2007 No 97).

Section 10(3C)(b): amended, on 1 April 2008, by section ZA 2(1) of the Income Tax Act 2007 (2007 No 97).

Subsection (3D) was amended, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35) by substituting the words “Income Tax Act 2004” for the words “Income Tax Act 1994” wherever they appear.

Section 10(3D)(b): amended, on 1 April 2008, by section ZA 2(1) of the Income Tax Act 2007 (2007 No 97).

Section 10(3D)(b)(i): amended, on 1 April 2008, by section ZA 2(1) of the Income Tax Act 2007 (2007 No 97).

Subsection (4) was substituted, as from 3 December 1985, by section 8(4) Goods and Services Tax Amendment Act 1986 (1986 No 43).

Subsection (4) was amended by section 89(3) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39) by substituting the expression “section 11(3)” for the words “the proviso to section 11(1) of this Act”, with application as from 10 October 2000.

Subsection (4) first proviso was amended, as from 1 April 1993, by section 4 Goods and Services Tax Amendment Act 1993 (1993 No 10) by omitting the words “the greater of the purchase price of those goods to that supplier and the”.

Subsection (5) was amended, as from 3 December 1985, by section 8(5)(a) Goods and Services Tax Amendment Act 1986 (1986 No 43) by substituting the words “any taxable supply of goods and services is made” for the words “goods and services are supplied”.

Subsection (5) was amended, as from 3 December 1985, by section 8(5)(b) Goods and Services Tax Amendment Act 1986 (1986 No 43) by substituting the words “(as defined in the Credit Contracts Act 1981) in relation to that supply” for the words “disclosed in the credit contract”.

Subsection (5) was amended, as from 22 March 1989, by section 3(2) Goods and Services Tax Amendment Act 1989 (1989 No 8) by omitting the word “taxable”.

Subsection (5) was substituted, and subsection (5A) was inserted, by section 89(4) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39) with application as from 10 October 2000.

Subsection (5A) was substituted, as from 1 April 2005, by section 139 Credit Contracts and Consumer Finance Act 2003 (2003 No 52). *See* sections 141 to 143 of that Act as to the transitional provisions.

Subsections (5B) and (5C) were inserted, as from 1 April 2005, by section 287(5) Taxation (Depreciation, Payment Dates Alignment, FBT, and Miscellaneous Provisions) Act 2006 (2006 No 3).

Subsection (6) was substituted, as from 3 December 1985, by section 8(6) Goods and Services Tax Amendment Act 1986 (1986 No 43).

Subsection (6), the expression “7.5 percent” was substituted, as from 1 July 1989, in 2 places, for the expression “6 percent” by section 16(1) Finance Act 1989 (1989 No 13).

In subsection (7) the expression “section 336S(2)” was substituted, as from 1 April 1989, for the expression “the proviso to section 336S” by section 6(2) Goods and Services Tax Amendment Act (No 2) 1989 (1989 No 152).

Subsection (7) was amended, as from 1 April 1995, by section YB 1 Income Tax Act 1994 (1994 No 164) by substituting the words “section CI 4 of the Income

Tax Act 1994” for the words “section 336P and section 336S(2) of the Income Tax Act 1976”.

Subsection (7) was amended by section 89(5) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39) by substituting the expression “section 21I(1)” for the words “section 21(3) of this Act”, with application as from 10 October 2000.

Subsection (7) was amended, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35) by substituting the words “sections CX 23, and ND 1S to ND 1V of the Income Tax Act 2004” for the words “section CI 4 of the Income Tax Act 1994”.

Subsection (7) was substituted, as from 18 December 2006, by section 213(1) Taxation (Savings Investment and Miscellaneous Provisions) Act 2006 (2006 No 81) with application for fringe benefits provided or granted on or after 18 December 2006.

Section 10(7)(a): amended, on 1 April 2008, by section 272(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section 10(7)(a): amended, on 1 April 2008, by section ZA 2(1) of the Income Tax Act 2007 (2007 No 97).

Subsection (7A) was inserted, by section 89(6) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39), with application as from 10 October 2000.

Subsection (8) was amended, as from 3 December 1985, by section 8(7)(a) Goods and Services Tax Amendment Act 1986 (1986 No 43) by substituting the words “the consideration in money for” for the words “the value of”.

Subsection (8) was amended, as from 3 December 1985, by section 8(7)(b) Goods and Services Tax Amendment Act 1986 (1986 No 43) by substituting the words “including any tax charged in respect of the supply of those goods and services to that supplier” for the words “excluding the tax charged”.

Subsection (8)(a) was amended, as from 12 December 1995, by section 4(1) Goods and Services Tax Amendment Act (No 2) 1995 (1995 No 75) by substituting the words “any input tax deduction claimed” for the words “any tax charged”.

Subsection (8) was amended by section 89(7) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39) by substituting the words “and the goods and services were acquired before 1 October 1986 or, where goods and services are treated as being supplied under section 21, the consideration in money for either supply” for the words “or section 21(1) of this Act, the consideration in money for that supply”, with application as from 10 October 2000.

Subsection (10) was substituted, as from 1 July 1989, by section 86 Public Finance Act 1989 (1989 No 44).

Subsection (10) was substituted, as from 10 April 1995, by section 5(1) Goods and Services Tax Amendment Act 1995 (1995 No 22).

Subsection (12) was amended, as from 22 June 1987, by section 4(2)(a) Goods and Services Tax Amendment Act 1987 (1987 No 103), by inserting the words “subject to ... this section,”.

Subsection (12)(a) to (d) were substituted, as from 19 December 1989, by section 6(3) Goods and Services Tax Amendment Act (No 2) 1989 (1989 No 152).

Subsection (12)(a)(ii) was amended by section 5(2)(a) Goods and Services Tax Amendment Act 1995 (1995 No 22) by substituting the words “paragraphs (f) and (g) of section 61G(1)” for the words “paragraphs (e) and (f) of section 61G(1)” with application in respect of supplies made on or after 1 August 1992.

Subsection (12)(b)(i) was amended by section 5(1) Goods and Services Tax Amendment Act 1995 (1995 No 22) by substituting the words “paragraphs (d), (f), and (g) of section 61G(1)” for the words “paragraphs (d), (e) and (f) of section 61G(1)” with application in respect of supplies made on or after 1 August 1992.

Subsection (12)(d) was amended by section 5(2)(c) Goods and Services Tax Amendment Act 1995 (1995 No 22) with application in respect of supplies made on or after 1 August 1992 by substituting the words “paragraphs (b), (c), and (da) of section 42(1), section 42(2)(b), and paragraphs (b), (c), and (e) of section 61G(1)” for the words “paragraphs (b) and (c) of section 42(1), section 42(2)(b), and paragraphs (b) and (c) of section 61G(1)” with application in respect of supplies made on or after 1 August 1992.

Subsection (12)(e) was amended by section 5(2)(d) Goods and Services Tax Amendment Act 1995 (1995 No 22) by substituting the expression “and (ca)” for the expression “section 97(1)(b)” with application in respect of supplies made on or after 1 August 1992.

Subsection (12)(f) was inserted, as from 10 April 1995, by section 5(3) Goods and Services Tax Amendment Act 1995 (1995 No 22).

Subsection (12)(f) was substituted, as from 15 December 1995, by section 3(1) Goods and Services Tax Amendment Act (No 3) 1995 (1995 No 80).

Subsection (12)(g) was inserted, as from 15 December 1995, by section 3(1) Goods and Services Tax Amendment Act (No 4) 1995 (1995 No 83).

Subsection (12) was substituted, as from 1 August 2003, by section 69(1) Racing Act 2003 (2003 No 3). *See* sections 71 to 81 of that Act as to the transitional provisions. *See* clause 2 Racing Act Commencement Order 2003 (SR 2003/134).

Subsection (12A) was inserted, as from 22 June 1987, by section 4(1) Goods and Services Tax Amendment Act 1987 (1987 No 103).

Subsection (12A) was amended, as from 15 December 1995, by section 3(2) Goods and Services Tax Amendment Act (No 4) 1995 (1995 No 83) by inserting the words “or sporting event”.

Subsection (12A) was repealed, as from 1 August 2003, by section 69(1) Racing Act 2003 (2003 No 3). *See* sections 71 to 81 of that Act as to the transitional provisions. *See* clause 2 Racing Act Commencement Order 2003 (SR 2003/134).

Subsection (13) was substituted, as from 1 August 2003, by section 69(1) Racing Act 2003 (2003 No 3). *See* sections 71 to 81 of that Act as to the transitional provisions. *See* clause 2 Racing Act Commencement Order 2003 (SR 2003/134).

In subsection (14) the words “New Zealand instant game”, were inserted, as from 29 August 1991, in both places where they occur, by section 17(4) Gaming and Lotteries Amendment Act (No 2) 1991 (1991 No 101). The words “(after deducting the amount of all prizes paid and payable in money)” were substituted, as from 3 December 1985, for the words “of the sale of the tickets

after deducting the amount of all prizes paid and payable in money in respect” by section 8(8) Goods and Services Tax Amendment Act 1986 (1986 No 43).

Subsection (14) was substituted, as from 1 July 2004, by section 374 Gambling Act 2003 (2003 No 51). *See* sections 376 and 377 of that Act for the savings and transitional provisions. *See* clause 2(3) Gambling Act Commencement Order 2003 (SR 2003/384).

Subsection (15) was substituted, as from 24 March 1988, by section 7(1) Goods and Services Tax Amendment Act 1988 (1988 No 7).

Subsection (15) was substituted, as from 29 August 1991, by section 17(5) Gaming and Lotteries Amendment Act (No 2) 1991 (1991 No 101).

Subsection (15) was substituted, as from 1 July 2004, by section 374 Gambling Act 2003 (2003 No 51). *See* sections 376 and 377 of that Act for the savings and transitional provisions. *See* clause 2(3) Gambling Act Commencement Order 2003 (SR 2003/384).

Subsection (15A) was inserted, as from 2 August 1990, by section 118(3) Casino Control Act 1990 (1990 No 62).

Subsection (15A) was substituted, as from 14 December 1992, by section 3 Goods and Services Tax Amendment Act (No 2) 1992 (1992 No 116).

Subsection (15A) was amended by section 89(8) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39) by substituting the word “If” for the words “Notwithstanding anything in subsection (16) or subsection (17) of this section, where”, with application as from 10 October 2000.

Subsection (15A) was substituted, as from 1 July 2004, by section 374 Gambling Act 2003 (2003 No 51). *See* sections 376 and 377 of that Act for the savings and transitional provisions. *See* clause 2(3) Gambling Act Commencement Order 2003 (SR 2003/384).

Subsection (15B) was inserted, as from 2 August 1990, by section 118(3) Casino Control Act 1990 (1990 No 62).

Subsection (15B) was substituted, as from 1 July 2004, by section 374 Gambling Act 2003 (2003 No 51). *See* sections 376 and 377 of that Act for the savings and transitional provisions. *See* clause 2(3) Gambling Act Commencement Order 2003 (SR 2003/384).

Subsection (15C) was inserted, as from 1 January 2005, by section 148(3) Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 (2003 No 122). *See* clause 2 Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act Commencement Order 2004 (SR 2004/226).

Section 10(15C): amended, on 1 April 2008, by section ZA 2(1) of the Income Tax Act 2007 (2007 No 97).

Subsection (15C) was amended, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35) by substituting the words “Income Tax Act 2004” for the words “Income Tax Act 1994” wherever they appear.

Section 10(15C)(a)(ii): amended, on 1 April 2008, by section ZA 2(1) of the Income Tax Act 2007 (2007 No 97).

Section 10(15C)(b)(ii): amended, on 1 April 2008, by section ZA 2(1) of the Income Tax Act 2007 (2007 No 97).

Subsection (16) was amended, as from 2 August 1990, by section 118(4) Casino Control Act 1990 (1990 No 62) by inserting the words “Subject to subsection (15A) of this section,”.

Subsection (16) was amended, as from 19 December 1989, by section 6(4) Goods and Services Tax Amendment Act (No 2) 1989 (1989 No 152) by substituting the words “(not being ... Act 1987)” for the words “(not being a stamp or special stamp as defined in section 67 of the Post Office Act 1959)”.

Subsection (16) was amended, as from 1 April 1998, by section 62(1) Postal Services Act 1998 (1998 No 2) by substituting the words “(not being a postage stamp as defined in section 2(1) of the Postal Services Act 1998)” for the words “(not being a postage stamp as defined in section 2 of the Postal Services Act 1987)”. *See* clause 2 Postal Services Act Commencement Order 1998 (SR 1998/49).

Subsection (16) was repealed by section 89(9) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39), with application on 10 October 2000.

Subsection (16A) was inserted in the original section 10 (as it was before its replacement by section 90 Taxation (GST and Miscellaneous Provisions) Act 2000 and before its amendment by section 79 Taxation (Remedial Matters) Act 1999) by section 239(2) Taxation (Taxpayer Assessment and Miscellaneous Provisions) Act 2001 (2001 No 85). *See* section 239(4) of that Act as to its application between 1 October 1986 and 19 May 1999 (both dates inclusive), if on or after 15 September 1995, the registered person has sought an adjustment on any basis to a calculation of tax payable in respect of the supply. Parliament incorrectly stated that this insertion was to apply to section 10 before its substitution by section 90 Taxation (GST and Miscellaneous Provisions) Act 2000, as that section substituted section 11 of this Act.

A new subsection (16A) was inserted by section 79(1) Taxation (Remedial Matters) Act 1999 (1999 No 98) with application as from 20 May 1999.

Subsection (16A) was repealed by section 89(9) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39), with application on 10 October 2000.

Subsection (17) was amended, as from 2 August 1990, by section 118(5) Casino Control Act 1990 (1990 No 62) by inserting the words “Subject to subsection (15A) of this section”.

Subsection (17) was amended, as from 1 April 1998, by section 62(1) Postal Services Act 1998 (1998 No 2) by substituting the words “postage stamp” for the words “stamp or special stamp”. *See* clause 2 Postal Services Act Commencement Order 1998 (SR 1998/49).

Subsection (17)(b) was substituted, as from 19 December 1989, by section 6(5) Goods and Services Tax Amendment Act (No 2) 1989 (1989 No 152).

Subsection (17)(b) was substituted, as from 1 April 1998, by section 62(1) Postal Services Act 1998 (1998 No 2). *See* clause 2 Postal Services Act Commencement Order 1998 (SR 1998/49).

Subsection (17) was repealed by section 89(9) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39), with application on 10 October 2000.

Subsection (17A) was inserted in the original section 10 (as it was before its replacement by section 90 Taxation (GST and Miscellaneous Provisions) Act 2000 and before its amendment by section 79 Taxation (Remedial Matters) Act 1999) by section 239(3) Taxation (Taxpayer Assessment and Miscellaneous

Provisions) Act 2001 (2001 No 85). *See* section 239(4) of that Act as to its application between 1 October 1986 and 19 May 1999 (both dates inclusive), if on or after 15 September 1995, the registered person has sought an adjustment on any basis to a calculation of tax payable in respect of the supply. Parliament incorrectly stated that this insertion was to apply to section 10 before its substitution by section 90 Taxation (GST and Miscellaneous Provisions) Act 2000, as that section substituted section 11 of this Act.

Subsection (17A) was inserted by section 79(2) Taxation (Remedial Matters) Act 1999 (1999 No 98) with application as from 20 May 1999.

Subsection (17A) was repealed by section 89(9) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39), with application on 10 October 2000.

Subsection (20) was inserted, as from 12 December 1995, by section 4(2) Goods and Services Tax Amendment Act (No 2) 1995 (1995 No 75).

Subsection (20) was repealed by section 89(9) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39), with application on 10 October 2000.

## **11 Zero-rating of goods**

- (1) A supply of goods that is chargeable with tax under section 8 must be charged at the rate of 0% in the following situations:
- (a) the supplier has entered the goods for export under the Customs and Excise Act 1996 and the goods have been exported by the supplier; or
  - (b) the goods have been deemed to be entered for export under the Customs and Excise Act 1996 and the goods have been exported by the supplier; or
  - (c) the supplier has satisfied the Commissioner that the goods have been exported by the supplier to a place outside New Zealand; or
  - (d) subject to subsection (4), the supplier will enter the goods for export under the Customs and Excise Act 1996 in the course of, or as a condition of, making the supply, and will export the goods; or
  - (e) subject to subsection (4), the goods will be deemed to be entered for export under the Customs and Excise Act 1996 and will be exported by the supplier in the course of, or as a condition of, making the supply; or
  - (eb) subject to subsection (4), the goods supplied—
    - (i) are supplied to a recipient who is a non-resident; and
    - (ii) have been entered for export under the Customs and Excise Act 1996 by the supplier or will be

- entered for export by the supplier in the course of or as a condition of making the supply; and
- (iii) are exported by the recipient; and
  - (iv) are not intended by the recipient for later importation into New Zealand for use other than in making taxable supplies or exempt supplies, with the absence of such an intention being confirmed by the recipient in a document retained by the supplier; and
  - (v) are not used or altered by the recipient before being exported, except to the extent necessary to prepare the goods for export; and
  - (vi) leave New Zealand under an arrangement agreed by the supplier and the recipient at or before the time of the supply; and
  - (vii) do not leave New Zealand in the possession of a passenger or crew member of an aircraft or ship; or
- (f) goods that would otherwise have been exported are destroyed, die or cease to exist in circumstances beyond the control of both the supplier and the recipient; or
- (g) subject to subsection (6), the goods are supplied by a supplier who is licensed under section 12 of the Customs and Excise Act 1996, if—
- (i) the supplier has been licensed by the Chief Executive of the New Zealand Customs Service to operate a sealed bag system; and
  - (ii) the goods are supplied in accordance with the sealed bag system; and
  - (iii) the goods are entered, or are deemed to be entered, for export under the Customs and Excise Act 1996; or
- (h) the goods and services are supplied—
- (i) by a supplier who is licensed under section 12 of the Customs and Excise Act 1996; and
  - (ii) within an area licensed under section 12 of the Customs and Excise Act 1996 as a customs controlled area for the processing of persons arriving in or departing from New Zealand; and

- (iii) to either—
  - (A) an inbound air traveller; or
  - (B) an outbound air traveller who picks up the goods upon returning to New Zealand; or
- (i) subject to subsection (7), the supply of a boat or an aircraft by way of sale to a recipient who exports the boat or aircraft under its own power to a place outside New Zealand; or
- (j) the goods are not situated in New Zealand at the time of supply and—
  - (i) the goods are not situated in New Zealand at the time of delivery to the recipient;
  - (ii) the recipient pays tax under section 12 on the importation of the goods into New Zealand; or
- (k) the goods have been supplied in the course of repairing, renovating, modifying or treating goods to which section 11A(1)(h) or 11A(1)(i) applies and the goods supplied—
  - (i) are wrought into, affixed to, attached to or otherwise form part of those other goods; or
  - (ii) are consumable goods that become unusable or worthless as a direct result of being used in the repair, renovation, modification or treatment process; or
- (ka) the goods are supplied for use on, or the use of, a pleasure craft, being a temporary import within the meaning of section 116 of the Customs and Excise Act 1996, that cause or enable the craft to sail, or that ensure the safety of passengers and crew on the craft; or
- (l) the goods supplied are consumable stores intended for use on—
  - (i) an aircraft on a flight, or going, to a destination outside New Zealand; or
  - (ii) a fishing ship outside, or going outside, New Zealand fisheries waters; or
  - (iib) a ship, other than a pleasure craft, carrying consumable stores to a foreign-going ship or to a fishing ship that meets the requirements in subparagraph (ii); or

- (iii) a foreign-going ship; or
  - (iv) a pleasure craft that is a temporary import within the meaning of section 116 of the Customs and Excise Act 1996 going to a destination outside New Zealand fisheries waters; or
  - (m) the supply to a registered person of a taxable activity, or part of a taxable activity, that is a going concern at the time of the supply, if—
    - (i) the supply is agreed by the supplier and the recipient, in writing, to be the supply of a going concern; and
    - (ii) the supplier and the recipient intend that the supply is of a taxable activity, or part of a taxable activity, that is capable of being carried on as a going concern by the recipient; or
  - (n) the supply of new fine metal, being the first supply of the new fine metal after its refining, by the refiner to a dealer in fine metal, for the purpose of supplying the fine metal for use as an investment item; or
  - (o) the goods are supplied as consideration for a supply that is chargeable at the rate of 0% under section 11A(1)(s) or (t).
- (2) For the purpose of subsection (1)(n), if a person is both a refiner of and a dealer in fine metal, the new fine metal is treated as having been supplied to the dealer at a time immediately before the making of an exempt supply of the new fine metal.
- (3) Subsection (1)(a) to (1)(l) do not apply to a supply of goods by a registered person if—
- (a) the registered person, or another person associated with the registered person, has deducted, under section 20(3), input tax as defined in section 3A(1)(c) in respect of the goods; or
  - (b) the goods have been or will be reimported into New Zealand by the supplier.
- (4) If subsection (1)(d), (e), or (eb) applies and the person required to export the goods does not do so within 28 days beginning on the day of the time of supply or a longer period that the Commissioner has allowed under subsection (5), the supply of the goods must be charged with tax at the rate specified in

- section 8 despite subsection (1)(d), (e), and (eb) but subject to subsection (1)(a), (1)(b) and subsection (5).
- (5) The Commissioner may extend the 28-day period before a supply of goods is charged with tax at the rate specified in section 8 if the Commissioner has determined, after the supplier has applied in writing, that—
- (a) circumstances beyond the control of the supplier and the recipient have prevented, or will prevent, the export of the goods within 28 days beginning on the day of the time of supply; or
  - (b) due to the nature of the supply, it is not practicable for the supplier to export the goods, or a class of the goods, within 28 days beginning on the day of the time of supply.
- (6) If subsection (1)(g) applies and the goods cannot be evidenced, as specified by the Chief Executive of the New Zealand Customs Service in accordance with the sealed bag system, as being exported within 28 days beginning on the day of the time of supply, despite subsection (1)(g), the supply must be charged with tax at the rate specified in section 8.
- (7) Subsection (1)(i) applies to the supply of a boat or an aircraft, if—
- (a) the boat or aircraft is exported within 60 days beginning on the date on which the recipient or the recipient's agent takes physical possession of it, or within a longer period as the Commissioner may allow under subsection (8); and
  - (b) the vendor or the purchaser provides the Commissioner with such documentation and undertakings as the Commissioner may require in relation to—
    - (i) records of the sale of the supply; and
    - (ii) limitations on dealings in and the uses to which the boat or aircraft will be put before export; and
    - (iii) the proposed and actual date of export.
- (8) The Commissioner may extend the 60-day period if the Commissioner is satisfied, upon the written application of the supplier, that circumstances beyond the control of the supplier and the recipient have prevented, or will prevent, the export of the boat or aircraft within the period.

- (9) For the purpose of this section—
- aircraft** has the meaning set out in section 2 of the Civil Aviation Act 1990
- consumable stores** means—
- (a) goods that passengers and crew on board an aircraft or a ship have available to consume; and
  - (b) goods necessary to operate or maintain an aircraft or a ship, including fuel and lubricants but excluding spare parts and equipment.
- fishing ship** has the meaning set out in section 2 of the Maritime Transport Act 1994
- foreign-going ship** means a ship on a voyage, or going, to a destination outside New Zealand, other than a pleasure craft or a fishing ship.
- New Zealand fisheries waters** has the meaning set out in section 2 of the Fisheries Act 1996
- pleasure craft** has the meaning set out in section 2 of the Maritime Transport Act 1994
- sealed bag system** means a system under which a supplier—
- (a) is licensed to operate an export warehouse; and
  - (b) may, with the authorisation of the Chief Executive of the New Zealand Customs Service, and subject to any conditions that the Chief Executive may specify, supply goods in a sealed bag to individuals intending to travel overseas within 5 days beginning on the day of the time of supply; and
  - (c) must provide evidence that the goods have been exported from New Zealand within 5 days beginning on the day of the time of supply, and if conditions have been specified by the Chief Executive of the New Zealand Customs Service, in accordance with those conditions.
- ship** has the meaning set out in section 2 of the Maritime Transport Act 1994.

Subsection (1)(a)(ia) was inserted, as from 3 December 1985, by section 9(1) Goods and Services Tax Amendment Act 1986 (1986 No 43).

A proviso to the original subsection (1)(a) was amended, as from 3 December 1985, by section 9(2) Goods and Services Tax Amendment Act 1986 (1986 No 43) by inserting the words “or, where circumstances beyond the control of the

supplier and recipient prevent the exportation of those goods within 28 days of the time of supply, such longer period as the Commissioner may determine”.

Subsection (1)(a) was substituted, as from 1 August 1990, by section 4(1) Goods and Services Tax Amendment Act 1990 (1990 No 64).

Subsection (1)(a), (aa), (ac) and (ad) were amended, as from 1 October 1996, by section 289(1) Customs and Excise Act 1996 (1996 No 27) by substituting the words “Customs and Excise Act 1996” for the words “Customs Act 1966” wherever they occurred.

Subsection (1)(ab) to (ae) were inserted, as from 1 August 1990, by section 4(1) Goods and Services Tax Amendment Act 1990 (1990 No 64).

Subsection (1)(ae) was substituted, as from 1 October 1996, by section 289(1) Customs and Excise Act 1996 (1996 No 27).

Subsection (1)(af) was inserted by section 3(1) Goods and Services Tax Amendment Act 1992 (1992 No 2). *See* section 3(2) of that Act as to the amending provision applying to supplies made on or after 1 October 1986.

Subsection (1)(af) was substituted by section 307(1) Customs and Excise Act 1996 (1996 No 27), with application to supplies made as from 1 October 1986.

Subsection (1)(ag) was inserted by section 3(2) Goods and Services Tax Amendment Act 1994 (1994 No 77) with application to supplies made as from 14 September 1994.

Subsection (1)(b) was substituted, as from 14 December 1992, by section 4 Goods and Services Tax Amendment Act 1992 (1992 No 116).

Subsection (1)(b) was substituted by section 3(1) Goods and Services Tax Amendment Act 1994 (1994 No 77). *See* section 3(5) of that Act with respect to its application to supplies made on or after 14 December 1992.

Subsection (1)(b) was amended, as from 1 October 1996, by section 289(1) Customs and Excise Act 1996 (1996 No 27) by substituting the words “Customs and Excise Act 1996” for the words “Customs Act 1966”.

Subsection (1)(ba) and (1)(bb) were inserted, as from 24 March 1988, by section 8(2) Goods and Services Tax Amendment Act 1988 (1988 No 7).

Subsection (1)(ba) was amended, as from 13 March 1992, by section 4(2)(a) Goods and Services Tax Amendment Act 1992 (1992 No 2) by substituting the words “subsection (2)(ca) of this section applies” for the words “subsection (2)(c)(ii) of this section refers”.

Subsection (1)(c) was substituted by section 6(1) Goods and Services Tax Amendment Act 1995 (1995 No 22) with application in respect of supplies made pursuant to a contract or agreement entered into as from 10 April 1995.

Subsection (1)(ca) was inserted, as from 3 December 1985, by section 9(3) Goods and Services Tax Amendment Act 1986 (1986 No 43).

Subsection (1) proviso was substituted, as from 3 December 1985, by section 9(4) Goods and Services Tax Amendment Act 1986 (1986 No 43)

Subsection (1) proviso was amended, as from 24 March 1988, by section 8(3) Goods and Services Tax Amendment Act 1988 (1988 No 7) by substituting the expression “paragraphs (a), (b), (ba), and (bb)” for the expression “paragraphs (a) and (b)”.

Subsection (1) proviso was amended, as from 1 April 1993, by section 5 Goods and Services Tax Amendment Act 1993 (1993 No 10) by substituting the expression “paragraphs (a) to (bb)” for the expression “paragraphs (a), (b), (ba), and (bb)”.

Subsection (1A) was inserted, as from 24 March 1988, by section 8(4) Goods and Services Tax Amendment Act 1988 (1988 No 7).

Subsection (1A) was substituted, and subsections (1B) to (1D) were inserted, as from 1 August 1990, by section 4(2) Goods and Services Tax Amendment Act 1990 (1990 No 64). *See* section 4(8) of that Act as to the amending provision applying to supplies made on or after 1 August 1990.

Subsection (1A), definition of Comptroller: omitted as from 1 October 1996, by section 289(1) Customs and Excise Act 1996 (1996 No 27).

Subsection (1A), definition of Sealed bag system: paras (b) and (c) amended, as from 1 October 1996, by section 289(1) Customs and Excise Act 1996 (1996 No 27) by substituting the words “Chief Executive of the New Zealand Customs Service” for the word “Comptroller”.

Subsection (1A) was substituted, as from 1 August 1990, by section 4(2) Goods and Services Tax Amendment Act 1990 (1990 No 64).

Subsections (1B) to (1D) were inserted, as from 1 August 1990, by section 4(2) Goods and Services Tax Amendment Act 1990 (1990 No 64).

Subsection (1D) was amended, as from 1 October 1996, by section 289(1) Customs and Excise Act 1996 (1996 No 27) by substituting the words “Chief Executive of the New Zealand Customs Service” for the word “Comptroller”.

Subsections (1E) and (1F) were inserted by section 3(3) Goods and Services Tax Amendment Act 1994 (1994 No 77) with application to supplies made as from 14 September 1994.

Subsection (2)(a) was substituted, as from 3 December 1985, by section 9(5) Goods and Services Tax Amendment Act 1986 (1986 No 43).

Subsection (2)(a) was substituted, and subsection (2)(aa) to (2)(ac) were inserted, as from 24 March 1988, by section 8(5) Goods and Services Tax Amendment Act 1988 (1988 No 7).

Subsection (2)(c)(i) was amended, as from 3 December 1985, by section 9(6) Goods and Services Tax Amendment Act 1986 (1986 No 43) by substituting the word “performed” for the word “supplied”.

Subsection (2)(c)(i) was amended, as from 1 August 1990, by section 4(3) Goods and Services Tax Amendment Act 1990 (1990 No 64) by inserting the words “, other than choses in action,”. *See* section 4(8) of that Act as to the amending provision applying to supplies made on or after 1 August 1990.

Subsection (2)(c) was substituted, and subsection (2)(ca) was inserted, as from 13 March 1992, by section 4(1) Goods and Services Tax Amendment Act 1992 (1992 No 2).

Subsection (2)(ca) was substituted, as from 1 October 1996, by section 289(1) Customs and Excise Act 1996 (1996 No 27).

Subsection (2)(ca)(i) was amended, as from 1 October 1996, by section 53(1) Taxation (Remedial Provisions) Act 1998 (1996 No 27) by substituting the words “directly in connection with” for the words “in relation to”. *See*

section 53(3) of that Act as to application, in some cases, of the amendment as from 20 November 1997.

Subsection (2)(caa) was inserted, with application as from 1 April 1999, by section 123(1) Taxation Accrual Rules and Other Remedial Matters) Act 1999 (1999 No 59)

Subsection (2)(d) was substituted by section 80(1) Taxation (Remedial Matters) Act 1999 (1999 No 98) with application as from 20 May 1999.

Subsection (2)(e) was substituted, as from 3 December 1985, by section 9(7) Goods and Services Tax Amendment Act 1986 (1986 No 43).

Subsection (2)(e)(ii) was amended, as from 1 August 1990, by section 4(4) Goods and Services Tax Amendment Act 1990 (1990 No 64) by inserting the words “, other than choses in action,”. See section 4(8) of that Act as to the amending provision applying to supplies made on or after 1 August 1990.

Subsection (2)(e) was amended, as from 1 August 1990, by section 4(5) Goods and Services Tax Amendment Act 1990 (1990 No 64) by substituting the words “and not being services which are-” for the words “and not being services which are the acceptance of an obligation to refrain from carrying on any taxable activity, to the extent the conduct of that activity would have occurred in New Zealand”. See section 4(8) of that Act as to the amending provision applying to supplies made on or after 1 August 1990.

Subsection (2)(e)(iii) and (2)(e)(iv) were inserted, as from 1 August 1990, by section 4(5) Goods and Services Tax Amendment Act 1990 (1990 No 64).

Subsection (2)(e) was substituted, as from 31 March 1991, by section 2(1) Goods and Services Tax Amendment Act (No 2) 1991 (1991 No 15).

Subsection (2)(e)(ii) was amended, as from 13 March 1992, by section 4(2)(b) Goods and Services Tax Amendment Act 1992 (1992 No 2) by substituting the words “goods to ... applies” for the expression “goods referred to in paragraph (c)(ii) of this section”.

Subsection (2)(f)(i) was amended by section 3(1)(a) Goods and Services Tax Amendment Act (No 3) 1991 (1991 No 48) by inserting the words “plant variety rights,”, with application to supplies made on or after the 1 October 1986.

Subsection (2)(f)(ia) was inserted by section 3(1)(b) Goods and Services Tax Amendment Act (No 3) 1991 (1991 No 48), with application to supplies made on or after the 1 October 1986.

Subsection (2)(fa) was inserted, as from 31 March 1991, by section 2(2) Goods and Services Tax Amendment Act (No 2) 1991 (1991 No 15).

Subsection (2)(fa) was substituted by section 3(2) Goods and Services Tax Amendment Act (No 3) 1991 (1991 No 48), with application to supplies made on or after 1 October 1986.

Subsections (2A) and (2B) were inserted by section 80(2) Taxation (Remedial Matters) Act 1999 (1999 No 98) with application as from 20 May 1999.

Subsection (3) was inserted, as from 3 December 1985, by section 9(9) Goods and Services Tax Amendment Act 1986 (1986 No 43).

Subsection (3) was repealed, as from 1 October 1989, by section 116(4) Transit New Zealand Act 1989 (1989 No 75).

Subsections (4) and (5) were inserted, as from 3 December 1985, by section 9(10) Goods and Services Tax Amendment Act 1986 (1986 No 43).

Section 11 was substituted, by section 90(1) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39), with application as from 10 October 2000.

Section 11(1)(eb): inserted (with effect from 17 May 2007), on 19 December 2007, by section 273(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Subsection (1)(f) was amended by section 62(4) Taxation (Beneficiary Income of Minors, Services-Related Payments and Remedial Matters) Act 2001 (2001 No 4) by substituting the words “both the supplier and the recipient” for the words “either the supplier or the recipient”, with application as from 24 October 2001.

Subsection (1)(j) was substituted, as from 3 April 2006, by section 288(1) Taxation (Depreciation, Payment Dates Alignment, FBT, and Miscellaneous Provisions) Act 2006 (2006 No 3) with application for supplies made as from 19 May 2005.

Subsection (1)(ka) was inserted, by section 240(1) Taxation (Taxpayer Assessment and Miscellaneous Provisions) Act 2001 (2001 No 85), with application as from 24 October 2001.

Subsection (1)(l) was substituted, by section 240(2) Taxation (Taxpayer Assessment and Miscellaneous Provisions) Act 2001 (2001 No 85), with application as from 24 October 2001.

Section 11(1)(l): amended (with effect from 24 October 2001), on 19 December 2007, by section 273(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section 11(1)(l)(i): substituted (with effect from 24 October 2001), on 19 December 2007, by section 273(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section 11(1)(l)(ii): substituted (with effect from 24 October 2001), on 19 December 2007, by section 273(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section 11(1)(l)(iib): inserted (with effect from 24 October 2001), on 19 December 2007, by section 273(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section 11(1)(n): amended, on 1 January 2009, by section 79(1) of the Climate Change Response (Emissions Trading) Amendment Act 2008 (2008 No 85).

Section 11(1)(o): added, on 1 January 2009, by section 79(1) of the Climate Change Response (Emissions Trading) Amendment Act 2008 (2008 No 85).

Section 11(4): amended (with effect from 17 May 2007), on 19 December 2007, by section 273(3)(a) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section 11(4): amended (with effect from 17 May 2007), on 19 December 2007, by section 273(3)(b) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Subsection (9) was amended, by section 240(3) Taxation (Taxpayer Assessment and Miscellaneous Provisions) Act 2001 (2001 No 85), by inserting the definition “consumable stores”, with application as from 24 October 2001.

Section 11(9) **consumable stores** paragraph (a): amended (with effect from 24 October 2001), on 19 December 2007, by section 273(4) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section 11(9) **foreign-going ship**: substituted (with effect from 24 October 2001), on 19 December 2007, by section 273(5) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Subsection (9) was amended, by section 240(4) Taxation (Taxpayer Assessment and Miscellaneous Provisions) Act 2001 (2001 No 85), by amending the definition “foreign-going ship” by omitting the words “as those terms are defined in section 2 of the Maritime Transport Act 1994,”, with application as from 24 October 2001.

Subsection (9) was amended, by section 240(5) Taxation (Taxpayer Assessment and Miscellaneous Provisions) Act 2001 (2001 No 85), by inserting the definition “pleasure craft”, with application as from 24 October 2001.

Subsection (9) was amended, by section 240(6) Taxation (Taxpayer Assessment and Miscellaneous Provisions) Act 2001 (2001 No 85), by inserting the definition “ship”, with application as from 24 October 2001.

## 11A Zero-rating of services

- (1) A supply of services that is chargeable with tax under section 8 must be charged at the rate of 0% in the following situations:
- (a) the services, not being ancillary transport activities such as loading, unloading and handling, are the transport of passengers or goods—
    - (i) from a place outside New Zealand to another place outside New Zealand; or
    - (ii) from a place in New Zealand to a place outside New Zealand; or
    - (iii) from a place outside New Zealand to a place in New Zealand; or
  - (b) the services are the transport of passengers from a place in New Zealand to another place in New Zealand to the extent that the transport is by **aircraft**, as defined in section 2 of the Civil Aviation Act 1990, and is **international carriage** for the purpose of that Act; or
  - (bb) the services are the transport of passengers from a place in New Zealand to another place in New Zealand by sea as part of an international cruise if either the first place of departure, or the final place of destination, of the cruise is outside New Zealand; or
  - (c) the services, including ancillary transport activities such as loading, unloading and handling, are the transport of

- goods from a place in New Zealand to another place in New Zealand to the extent that the services are supplied by the same supplier as part of the supply of services to which paragraph (a)(ii) or (a)(iii) applies; or
- (cb) the services, including ancillary activities such as loading, unloading, handling and storing, are the transport of household goods from a place in New Zealand to another place in New Zealand, if—
- (i) the services are supplied to a person who, at the time of the supply, is non-resident and outside New Zealand; and
  - (ii) the goods are entered for home consumption under the Customs and Excise Act 1996; and
  - (iii) the arrangement for the supply of the services is made before the goods are entered; and
  - (iv) the services are reasonably expected to be completed within the period of 28 days that begins on the date of entry of the goods; or
- (d) the services are the insuring, or the arranging of the insurance, or the arranging of the transport of passengers or goods to which any one of paragraphs (a) to (cb) applies; or
- (e) the services are supplied directly in connection with land situated outside New Zealand or any improvement to the land; or
- (f) the services are supplied directly in connection with moveable personal property, other than choses in action, situated outside New Zealand when the services are performed; or
- (g) the services are supplied to overseas postal organisations for the delivery in New Zealand of postal articles mailed outside New Zealand; or
- (h) the services are supplied directly in connection with goods supplied from outside New Zealand and whose destination is outside New Zealand, including stores for craft, only if the goods are not removed from the ship or aircraft in which they arrived while the ship or aircraft is in New Zealand; or

- (i) the services are supplied directly in connection with goods referred to in section 116 of the Customs and Excise Act 1996; or
- (j) the services are physically performed outside New Zealand or are the arranging of services that are physically performed outside New Zealand; or
- (k) subject to subsection (2), the services are supplied to a person who is a non-resident and who is outside New Zealand at the time the services are performed, not being services which are—
  - (i) supplied directly in connection with—
    - (A) land situated in New Zealand or any improvement to the land; or
    - (B) moveable personal property, other than choses in action or goods to which paragraph (h) or (i) applies, situated in New Zealand at the time the services are performed; or
  - (ii) the acceptance of an obligation to refrain from carrying on a taxable activity, to the extent that the activity would have occurred within New Zealand; or
- (l) subject to subsection (2), the services are the supply of information to a person who is a non-resident and who is outside New Zealand at the time the services are performed, if the services are supplied directly in connection with moveable personal property situated in New Zealand at the time the services are performed; or
- (m) the services are supplied—
  - (i) directly in connection with goods, the supply of which was subject to any one of section 11(1)(a) to (eb); and
  - (ii) to a recipient who, when the services are performed, is a non-resident and outside New Zealand; or
- (ma) the services relate to goods under warranty to the extent that the services are—
  - (i) provided under the warranty; and

- (ii) supplied for consideration that is given by a warrantor who is a non-resident, not a registered person and who is outside New Zealand at the time the services are performed; and
  - (iii) in respect of goods that were subject to tax under section 12(1); or
- (n) subject to subsection (4), the services are—
  - (i) the filing, prosecution, granting, maintenance, transfer, assignment, licensing or enforcement of intellectual property rights, including patents, designs, trade marks, copyrights, plant variety rights, know-how, confidential information, trade secrets or similar rights; or
  - (ii) other services in respect of rights listed in subparagraph (i), including services involved in the making of searches, the giving of advice, opposing a grant or seeking the revocation of the rights, or opposing steps taken to enforce the rights; or
- (o) the services are the acceptance of an obligation to refrain from pursuing or exercising in whole or in part rights listed in paragraph (n) to the extent that the rights are for use outside New Zealand; or
- (p) the services are the acceptance of an obligation to refrain from carrying on a taxable activity if the activity would have occurred outside New Zealand; or
- (q) the services are financial services that are supplied in respect of a taxable period, by a registered person who has made an election under section 20F, to a registered person who makes supplies of goods and services such that taxable supplies that are not charged with tax at the rate of 0% under this paragraph or under paragraph (r) make up not less than 75% of the total value of the supplies in respect of—
  - (i) a 12-month period that includes the taxable period; or
  - (ii) a period acceptable to the Commissioner; or
- (r) the services are financial services that are supplied in respect of a taxable period, by a registered person who has made an election under section 20F, to a person who

- is a member of a group of companies for the purposes of section IA 6 of the Income Tax Act 2007 and—
- (i) the members of the group make supplies of goods and services to persons who are not members of the group in respect of—
    - (A) a 12-month period that includes the taxable period; or
    - (B) a period acceptable to the Commissioner; and
  - (ii) not less than 75% of the total value of the supplies referred to in subparagraph (i) consists of taxable supplies that are not charged with tax at the rate of 0% under this paragraph or under paragraph (q); or
  - (s) the services are a New Zealand unit, and the supply is the transfer of the emissions unit under section 64 of the Climate Change Response Act 2002 or under Part 4, subpart 2 of that Act; or
  - (t) the services are an emissions unit, and the supply is the surrender of the emissions unit under section 63 of the Climate Change Response Act 2002; or
  - (u) the services are supplied as consideration for a supply that is chargeable at the rate of 0% under paragraph (s) or (t); or
  - (v) the services are an emissions unit, and the supply is the sale or other disposal of the emissions unit.
- (1B) Subsection (1)(j) does not apply to a supply of services that is treated by section 8(4B) as being made in New Zealand unless the nature of the services is such that the services can be physically received at no time and place other than the time and place at which the services are physically performed.
- (2) Subsection (1)(k) and (1)(l) do not apply to a supply of services under an agreement that is entered into, whether directly or indirectly, with a person (person A) who is a non-resident if—
- (a) the performance of the services is, or it is reasonably foreseeable at the time the agreement is entered into that the performance of the services will be, received in New Zealand by another person (person B), including—
    - (i) an employee of person A; or

- (ii) if person A is a company, a director of the company; and
  - (b) it is reasonably foreseeable, at the time the agreement is entered into, that person B will not receive the performance of the services in the course of making taxable or exempt supplies.
- (3) For the purpose of subsection (1)(k), (1)(l) and (1)(ma), and subsection (1)(n) as modified by subsection (4)(b), **outside New Zealand**, for a company or an unincorporated body that is not resident, includes a minor presence in New Zealand, or a presence that is not effectively connected with the supply.
- (4) Subsection (1)(n) applies only to the extent that—
  - (a) the rights are for use outside New Zealand; or
  - (b) the services are supplied to a person who is a non-resident and who is outside New Zealand when the services are performed.
- (5) This section does not apply to supplies of telecommunications services.
- (6) The availability of a deduction under subsection (1)(q) and (r) must be determined using a method allowed by section 20E.

Section 11A was inserted by section 90(1) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39), with application as from 10 October 2000.

Subsection (1)(b) was amended, as from 1 June 2004, by section 41(3) Civil Aviation Amendment Act 2004 (2004 No 8) by substituting the words “that Act” for the words “the Carriage by Air Act 1967”.

Subsection (1)(bb) was inserted, as from 26 March 2003, by section 156(1) Taxation (Maori Organisations, Taxpayer Compliance and Miscellaneous Provisions) Act 2003 (2003 No 5).

Subsection (1)(cb) was inserted by section 149(1) Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 (2003 No 122) with application to supplies made as from 25 November 2003.

Subsection (1)(d) was amended by section 149(2) Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 (2003 No 122) by substituting the words “paragraphs (a) to (cb)” for the words “paragraphs (a) to (c)” with application to supplies made as from 25 November 2003.

Subsection (1)(k) and (l) were amended, as from 25 November 2003, by section 149(3) Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 (2003 No 122) by substituting the words “a non-resident” for the words “not resident in New Zealand”.

Subsection (1)(m) was substituted, as from 25 November 2003, by section 149(4) Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 (2003 No 122).

Section 11A(1)(m)(i): amended (with effect from 17 May 2007), on 19 December 2007, by section 274 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Subsection (1)(ma) was inserted by section 100(1) Taxation (Relief, Refunds and Miscellaneous Provisions) Act 2002 (2002 No 32) with application as from 1 August 2002.

Subsection (1)(ma)(ii) was amended, as from 25 November 2003, by section 149(3) Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 (2003 No 122) by substituting the words “a non-resident” for the words “not resident in New Zealand”.

Subsection (1)(p) was amended, as from 1 January 2005 by section 149(5) Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 (2003 No 122) by substituting the words “New Zealand; or” for the words “New Zealand.” See clause 2 Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act Commencement Order 2004 (SR 2004/226).

Subsections (1)(q) and (r) were inserted, as from 1 January 2005 by section 149(5) Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 (2003 No 122). See clause 2 Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act Commencement Order 2004 (SR 2004/226).

Section 11A(1)(r): amended, on 1 April 2008, by section ZA 2(1) of the Income Tax Act 2007 (2007 No 97).

Subsection (1)(r) was amended, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35) by substituting the words “Income Tax Act 2004” for the words “Income Tax Act 1994”.

Section 11A(1)(r)(ii): amended, on 1 January 2009, by section 80(1) of the Climate Change Response (Emissions Trading) Amendment Act 2008 (2008 No 85).

Section 11A(1)(s): added, on 1 January 2009, by section 80(1) of the Climate Change Response (Emissions Trading) Amendment Act 2008 (2008 No 85).

Section 11A(1)(t): added, on 1 January 2009, by section 80(1) of the Climate Change Response (Emissions Trading) Amendment Act 2008 (2008 No 85).

Section 11A(1)(u): added, on 1 January 2009, by section 80(1) of the Climate Change Response (Emissions Trading) Amendment Act 2008 (2008 No 85).

Section 11A(1)(v): added, on 1 January 2009, by section 80(1) of the Climate Change Response (Emissions Trading) Amendment Act 2008 (2008 No 85).

Subsection (1B) was inserted, as from 1 January 2005 by section 149(6) Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 (2003 No 122). See clause 2 Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act Commencement Order 2004 (SR 2004/226).

Subsection (1B) was substituted, as from 1 January 2005, by section 145(1) Taxation (Venture Capital and Miscellaneous Provisions) Act 2004 (2004 No 111).

Subsection (2) was amended, as from 25 November 2003, by section 149(7) Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 (2003 No 122) by substituting the words “a non-resident” for the words “not resident in New Zealand”.

Subsection (3) was amended by section 100(2) Taxation (Relief, Refunds and Miscellaneous Provisions) Act 2002 (2002 No 32) by substituting the expression “, (1)(l) and (1)(ma)” for the expression “and (1)(l)” with application as from 1 August 2002.

Subsection (4) was amended, as from 25 November 2003, by section 149(7) Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 (2003 No 122) by substituting the words “a non-resident” for the words “not resident in New Zealand”.

Subsection (5) was inserted, as from 1 July 2003, by section 156(2) Taxation (Maori Organisations, Taxpayer Compliance and Miscellaneous Provisions) Act 2003 (2003 No 5).

A further subsection (5) was inserted, as from 1 January 2005 by section 149(8) Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 (2003 No 122). *See* clause 2 Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act Commencement Order 2004 (SR 2004/226).

Subsection (5) (as added by section 149(8) Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003) was repealed, as from 1 January 2005, by section 145(2) Taxation (Venture Capital and Miscellaneous Provisions) Act 2004 (2004 No 111).

Subsection (6) was inserted, as from 1 January 2005, by section 145(2) Taxation (Venture Capital and Miscellaneous Provisions) Act 2004 (2004 No 111).

### **11AB Zero-rating of telecommunications services**

A supply of services that is chargeable with tax under section 8 must be charged at the rate of 0% if—

- (a) the services are the supply of telecommunications services to an overseas telecommunications supplier by a telecommunications supplier who is a resident; or
- (b) the services are the supply of telecommunications services to a person, not being an overseas telecommunications supplier, for a telecommunications service that is initiated outside New Zealand under section 8(9).

Section 11AB was inserted, as from 1 July 2003, by section 157 Taxation (Maori Organisations, Taxpayer Compliance and Miscellaneous Provisions) Act 2003 (2003 No 5).

Paragraph (a) was amended, as from 25 November 2003, by section 150(1) Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 (2003 No 122) by substituting the words “who is a resident” for the words “resident in New Zealand”.

Paragraph (b) was amended, as from 1 July 2003, by section 150(2) Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 (2003 No 122) by substituting the word “person” for the words “person outside New Zealand”.

**11B Zero-rating of some supplies by territorial authorities, some supplies involving contributions to local authorities**

- (1) A supply of services that is chargeable with tax under section 8 must be charged at the rate of 0% if the supplier is a territorial authority and the consideration for the supply is proceeds from the local authorities petroleum tax paid to the supplier under section 198 of the Local Government Act 1974.
- (1B) If a supply under section 5(7B) of goods and services by a local authority to a registered person is chargeable with tax under section 8, the supply must be charged at the rate of 0% to the extent that the contribution made by the registered person to the local authority consists of land.
- (1C) If a supply under section 5(7C) of goods and services by a person to a local authority is chargeable with tax under section 8, the supply must be charged at the rate of 0% if the local authority is a registered person.
- (1D) If a supply under section 5(7D) of goods and services by a territorial authority to a registered person is chargeable with tax under section 8, the supply must be charged at the rate of 0% to the extent that the contribution made by the registered person to the territorial authority consists of land.
- (1E) If a supply under section 5(7E) of goods and services by a person to a territorial authority is chargeable with tax under section 8, the supply must be charged at the rate of 0% if the territorial authority is a registered person.
- (2) For the purpose of subsection (1)—

**territorial authority** means a territorial authority within the meaning of the Local Government Act 2002

territorial authority: this definition was substituted, as from 1 July 2003, by section 262 Local Government Act 2002 (2002 No 84). *See* sections 273 to 314 of that Act as to the savings and transitional provisions.

**local authorities petroleum tax** is local authorities petroleum tax levied in accordance with Part 11 of the Local Government Act 1974.

Section 11B was inserted by section 90(1) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39), with application as from 10 October 2000.

The heading to section 11B was amended, as from 25 November 2003, by section 151(1) Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 (2003 No 122) by substituting the words “some supplies by ter-

ritorial authorities, some supplies involving contributions to local authorities” for the words “supply by territorial authority”.

Subsections (1B) and (1C) were inserted by section 151(2) Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 (2003 No 122) with application to contributions that are made as from 25 November 2003.

Section 11B(1D): inserted, on 17 September 2008, by section 36(3) of the Affordable Housing: Enabling Territorial Authorities Act 2008 (2008 No 67).

Section 11B(1E): inserted, on 17 September 2008, by section 36(3) of the Affordable Housing: Enabling Territorial Authorities Act 2008 (2008 No 67).

## **12 Imposition of goods and services tax on imports**

- (1) Notwithstanding anything in this Act, a tax to be known as goods and services tax shall be levied, collected, and paid in accordance with the provisions of this section at the rate of 12.5 percent on the importation of goods (not being fine metal) into New Zealand, being goods that are—
- (a) Entered therein, or delivered, for home consumption under the Customs and Excise Act 1996; or
  - (b) Entered for delivery to a manufacturing area licensed under section 12 of the Customs and Excise Act 1996; or
  - (c) Before their entry, or delivery, for home consumption or, as the case may be, entry for delivery to a manufacturing area licensed under section 12 of the Customs and Excise Act 1996, dealt with in breach of any provision of the Customs and Excise Act 1996,—
- by reference to the value of the goods as determined under subsection (2) of this section.
- (1A) Goods and services tax is not payable under subsection (1) for any goods if the Chief Executive of the New Zealand Customs Service is satisfied that, at the time of importation or entry for home consumption under the Customs and Excise Act 1996,—
- (a) the goods are intended solely for the use of an organisation, visiting force, expedition, or other body approved by the Chief Executive of the New Zealand Customs Service that may be established or temporarily based in New Zealand under an agreement or arrangement entered into by or on behalf of the Government of New Zealand with the Government of another State, the

- United Nations, or any other international organisation;  
or
- (b) the goods are intended solely for the use of a person temporarily resident in New Zealand for the purpose of serving as a member of any approved organisation, visiting force, expedition, or other body.
- (2) For the purposes of subsection (1) of this section, the value of goods imported into New Zealand shall be the sum of the following amounts (excluding any tax charged under this Act):
- (a) The amount of the value of the goods determined in accordance with Schedule 2 to the Customs and Excise Act 1996 (whether or not duty is payable under that Act); and
- (b) The amounts of duty (if any) and tax (if any) payable on those goods under the Customs and Excise Act 1996, but not including any tax levied or charged under this Act; and
- (c) The amount paid or payable to transport the goods to New Zealand and to insure the goods for such transport, if not already included under paragraph (a) of this subsection.
- (3) Subject to this section, tax levied under subsection (1) of this section shall be collected and paid in accordance with the Customs and Excise Act 1996.
- (4) The following provisions shall apply to the collection, payment, and enforcement of goods and services tax levied under subsection (1) of this section:
- (a) Sections 2 and 3, Parts 1 and 2, Part 3 (except for section 38), Part 4, Part 5, Part 6, Part 7 (except for section 81), Part 8 (except for sections 107, 108, 109, 111, 112, 113, 114, 115, 117, 118), Parts 10, 11, 12, 13, 14, 16, and 17 of the Customs and Excise Act 1996; and
- (b) Section 109 of the Customs and Excise Act 1996:
- Provided that this paragraph shall apply only in respect of goods that are imported by the same person as the person who exported them from New Zealand if, at the time of their export from New Zealand, those goods were not—

- (i) A supply of goods charged with tax at the rate of zero percent pursuant to section 11 of this Act; or
  - (ii) A supply of goods, made before the 1st day of October 1986, that would have been charged with tax at the rate of zero percent pursuant to section 11 of this Act if the supply of those goods had taken place on the 1st day of October 1986; and
- (c) Sections 111, 112, 113, 115, and 118 of the Customs and Excise Act 1996:  
Provided that this paragraph shall not apply to any registered person in respect of goods imported for the purpose of carrying on that person's taxable activity if the person is entitled to make an input tax deduction under section 20(3) in respect of the goods; and
- (d) Section 117 of the Customs and Excise Act 1996, where—
  - (i) The specifications of the imported goods are not in accordance with the specifications of the goods ordered, or the imported goods are faulty; and
  - (ii) The recipient is either not a registered person, or is a registered person but is not entitled to make an input tax deduction under section 20(3) in respect of the imported goods; and
  - (iii) The person who imported the goods exports the goods—
    - (A) In the case of goods with the wrong specifications, within 2 months after their importation, or such longer period not exceeding 12 months after their importation as may be approved by the Customs; or
    - (B) In the case of faulty goods, within 12 months after their importation; and
- (e) reference numbers 40, 45, 70, 75, 80, 81 and 82 of Part 2 of Schedule 1 of the Tariff Act 1988 if—
  - (i) the goods are entitled to be entered under any of these reference numbers; or

- (ii) the goods are entitled to be entered duty free under Part 1 of Schedule 1 of the Tariff Act 1988, but would have been entitled to be entered under any of these reference numbers if the goods had been dutiable under Part 1 of Schedule 1 to the Tariff Act 1988.
- (f)
- (5) No liability to goods and services tax shall arise under any provision of the Customs and Excise Act 1996 by virtue of the operation of subsection (3) or subsection (4) of this section.
- (6) For the purposes of this section,—
  - (a) The terms **fine metal**, **New Zealand**, **person**, and **registered person** have the same meanings as defined in section 2 of this Act:
  - (b) The term **taxable activity** has the same meaning as defined in section 6 of this Act.

In subsection (1) of the original section: The expression “12.5 percent” was substituted, as from 1 July 1989, for the expression “10 percent” by section 17(1) Finance Act 1989 (1989 No 13).

In the original section the words “(not being fine metal)” were substituted, as from 22 March 1989, for the words “(not being goods the supply of which is exempt from tax pursuant to section 14 of this Act)” (as inserted, from 3 December 1985, by section 10(1) Goods and Services Tax Amendment Act 1986 (1986 No 43)) by section 4(1) Goods and Services Tax Amendment Act 1989 (1989 No 8).

In subsection (1) of the original section the expression “12.5 percent” was substituted, as from 1 July 1989, for the expression “10 percent” by section 18(1) Finance Act 1989 (1989 No 13).

Subsection (1)(aa) was inserted, as from 3 December 1985, by section 10(2) Goods and Services Tax Amendment Act 1986 (1986 No 43).

Subsection (1)(b) was amended, as from 3 December 1985, by section 10(3) Goods and Services Tax Amendment Act 1986 (1986 No 43) by inserting the words “or, as the case may be, entry for delivery to a manufacturing area under the Customs Act 1966”.

In subsections (1), (2), and (3) the expression “Part 4A” was substituted, as from 3 December 1985, for the expression “section 134” by section 11 Goods and Services Tax Amendment Act 1986 (1986 No 43).

Subsection (2)(ba) was inserted, as from 19 December 1989, by section 7 Goods and Services Tax Amendment Act (No 2) 1989 (1989 No 152).

Subsection (2)(d) was repealed, as from 3 December 1985, by section 10(4) Goods and Services Tax Amendment Act 1986 (1986 No 43).

In subsection (4)(a) the words “(except for sections 117, 117A, 117B, and 118)” were omitted, the expression “152A” was inserted, and the expression “164” was omitted, all as from 3 December 1985, by section 10(5)(a), (b), and (c)

respectively of the Goods and Services Tax Amendment Act 1986 (1986 No 43).

Subsection (4)(a) was amended, as from 30 March 1995, by section 3(4) Customs Amendment Act 1995 (1995 No 7) by inserting the expression “154A, 154B,”.

Subsection (4)(aa) was inserted, as from 3 December 1985, by section 10(6) Goods and Services Tax Amendment Act 1986 (1986 No 43).

Subsection (4)(aa) was substituted, as from 24 March 1988, by section 9(1) Goods and Services Tax Amendment Act 1988 (1988 No 7).

Subsection (4)(ba) and (bb) were inserted, as from 1 August 1990, by section 5(1) Goods and Services Tax Amendment Act 1990 (1990 No 64).

Subsection (6)(a) was amended, as from 22 March 1989, by section 4(2) Goods and Services Tax Amendment Act 1989 (1989 No 8) by inserting the words “fine metal”.

Section 12 was substituted, as from 1 October 1996, by section 289(1) Customs and Excise Act 1996 (1996 No 27).

Subsection (1A) was inserted, as from 27 September 2001, by section 3 Goods And Services Tax Amendment Act 2001 (2001 No 68).

Subsection (4)(c) was amended, as from 1 October 1996, by section 53(1) Taxation (Remedial Provisions) Act 1996 (1996 No 159) by substituting the words “Sections 111, 112, 113, 115, and 118” for the words “Sections 112, 113, 114, 116, and 117”.

Subsection (4)(c) proviso was amended by section 91(2) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39) by inserting the words “if the person is entitled to make an input tax deduction under section 20(3) in respect of the goods”, after the words “taxable activity”, with application as from 10 October 2000.

Subsection (4)(d) was amended, as from 1 October 1996, by section 53(2) Taxation (Remedial Provisions) Act 1996 (1996 No 159) by substituting the expression “117” for the expression “119”.

Subsection (4)(d)(ii) was amended, as from 21 June 2005, by section 156 Taxation (Base Maintenance and Miscellaneous Provisions) Act 2005 (2005 No 79) by substituting the words “is not entitled to make an input tax deduction under section 20(3) in respect of” for the words “does not qualify for an input tax credit in relation to”.

Subsection (4)(e) was substituted by section 91(3) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39), with application as from 10 October 2000.

Subsection (4)(f) was repealed, by section 91(3) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39), with application as from 10 October 2000.

**13 Imposition of goods and services tax on goods liable to excise duty and supplied at in bond prices***[Repealed]*

Section 13 was repealed, as from 1 October 1996, by section 289(1) Customs and Excise Act 1996 (1996 No 27).

**14 Exempt supplies**

- (1) The following supplies of goods and services shall be exempt from tax:
- (a) The supply of any financial services (together with the supply of any other goods and services, supplied by the supplier of those financial services, which are reasonably incidental and necessary to that supply of financial services), not being a supply referred to in subsection (1B):
    - (i)
    - (ii)
  - (b) The supply by any non-profit body of any donated goods and services:
  - (c) The supply of accommodation in any dwelling by way of—
    - (i) Hire; or
    - (ii) A service occupancy agreement; or
    - (iii) A licence to occupy:
  - (ca) The supply of leasehold land by way of rental (not being a grant or sale of the lease of that land) to the extent that that land is used for the principal purpose of accommodation in a dwelling erected on that land:
  - (cb) the supply of property by way of lease that is to be used for the principal purpose of accommodation in a dwelling by any person, other than a registered person in the course or furtherance of a taxable activity:
  - (d) The supply, being a sale, by any registered person in the course or furtherance of any taxable activity of—
    - (i) Any dwelling; or
    - (ii) The reversionary interest in the fee simple estate of any leasehold land,—  
that has been used by the registered person for a period of 5 years or more before the date of the supply exclu-

- sively for the making of any supply or supplies referred to in paragraph (c) or paragraph (ca) of this section:
- (e) The supply of any fine metal, not being a supply which, but for this paragraph, would be charged with tax at the rate of zero percent pursuant to section 11 of this Act.
- (1B) The following supplies are excluded from the exemption under subsection (1):
- (a) a supply of financial services that, in the absence of subsection (1)(a), would be charged with tax at the rate of zero per cent under section 11A:
  - (b) a supply described in paragraph (b) of the **associated supply**:
  - (c) a supply of goods and services which (although being part of a supply of goods and services which, but for this paragraph, would be an exempt supply under subsection (1)(a)) is not in itself, as between the supplier of that first-mentioned supply and the recipient, a supply of financial services in respect of which subsection (1)(a) applies.
- (2) A supplier and a recipient may agree, in writing, that a supply under subsection (1)(cb) is not an exempt supply if—
- (a) the lease was entered into before 16 May 2000; and
  - (b) the supplier has, before 16 May 2000, treated a supply under the lease as being a taxable supply.
- (3) An amount is treated as being consideration for an exempt supply if it is—
- (a) penalty or default interest, or a charge in the nature of penalty or default interest, that is imposed—
    - (i) under a contract for the supply of goods and services:
    - (ii) under an enactment:
  - (b) a penalty imposed on unpaid rates under the Local Government (Rating) Act 2002:
  - (c) a postponement fee, or a part of a postponement fee, that is imposed under section 88 of the Local Government (Rating) Act 2002 and that relates to financial costs of the local authority arising from a postponement of rates.

Subsection (1)(a) was substituted, as from 19 December 1989, by section 8(1) Goods and Services Tax Amendment Act (No 2) 1989 (1989 No 152)

Subsection (1)(a) (before subpara (i)) was amended, as from 3 April 2006, by section 289(1)(a) Taxation (Depreciation, Payment Dates Alignment, FBT, and Miscellaneous Provisions) Act 2006 (2006 No 3) by substituting the words “not being a supply referred to in subsection (1B):” for the words “not being—”.

Subsection (1)(a)(i) and (ii) was repealed, as from 3 April 2006, by section 289(1)(b) Taxation (Depreciation, Payment Dates Alignment, FBT, and Miscellaneous Provisions) Act 2006 (2006 No 3).

Subsection (1)(a)(i) was amended by section 92(1) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39) by substituting the word “paragraph” for the word “subparagraph”, with application to supplies made as from 19 December 1989.

Subsection (1)(a)(i) was amended by section 92(2) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39) by substituting the expression “section 11A” for the expression “section 11(2) of this Act”, with application as from 10 October 2000.

Subsection (1)(c) was substituted, as from 1 August 1990, by section 6(1) Goods and Services Tax Amendment Act 1990 (1990 No 64).

Subsection (1)(ca) was inserted, as from 3 December 1985, by section 12(1) Goods and Services Tax Amendment Act 1986 (1986 No 43).

Subsection (1)(cb) was inserted by section 92(3) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39), with application as from 10 October 2000.

Subsection (1)(d) was amended, from 3 December 1985, by section 12(2) Goods and Services Tax Amendment Act 1986 (1986 No 43).

Subsection (1)(d) was substituted, as from 1 April 1989, by section 6(2) Goods and Services Tax Amendment Act 1990 (1990 No 64).

Subsection (1)(e) was inserted, as from 3 December 1985, by section 12(3) Goods and Services Tax Amendment Act 1986 (1986 No 43).

Subsection (1)(e) was amended by section 92(4) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39) by substituting the expression “section 11” for the expression “section 11(1)”, with application as from 19 December 1989.

Subsection (1B) was inserted, as from 3 April 2006, by section 289(2) Taxation (Depreciation, Payment Dates Alignment, FBT, and Miscellaneous Provisions) Act 2006 (2006 No 3) with application for supplies of financial services made as from 3 April 2006.

Subsections (2) and (3) were inserted by section 92(5) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39), with application as from 10 October 2000.

Subsection (3) was substituted by section 101(1) Taxation (Relief, Refunds and Miscellaneous Provisions) Act 2002 (2002 No 32), with application as from 10 October 2000.

Subsection (3) was substituted by section 152(1) Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 (2003 No 122) with application to an amount of penalty, interest, charge or fee that is imposed as from 1 July 2003.

### **Part 3**

#### **Returns and payment of tax**

##### **15 Taxable periods**

- (1) A registered person's taxable period must be 1 of the following:
  - (a) a 6-month period, if subsection (2) applies:
  - (b) a 2-month period:
  - (c) a 1-month period, if subsection (3) or (4) applies.
- (2) A person's taxable period may be a 6-month period if
  - (a) the person's taxable supplies in a 12-month period are no more, and are not likely to be more, than \$250,000; and
  - (b) the person applies to the Commissioner to pay on this basis.
- (3) A person's taxable period may be a 1-month period if the person applies to the Commissioner to pay on that basis.
- (4) A person's taxable period must be a 1-month period if the person's taxable supplies in a 12-month period are more, or are likely to be more, than \$24,000,000.
- (5) For the purposes of subsections (2) and (4),
  - (a) the 12-month period is a period that starts on the first day of a month and ends on the last day of a month:
  - (b) the amount of a person's taxable supplies does not include the amount of taxable supplies arising as part of
    - (i) the ending, including a premature ending, of a taxable activity carried on by the person:
    - (ii) a substantial and permanent reduction in the size or scale of a taxable activity carried on by the person:
    - (iii) the replacement of plant or a capital asset used in a taxable activity carried on by the person:
  - (c) the Governor-General, from time to time, may declare by Order in Council another amount as the limit applying to the value of a person's taxable supplies.

Section 15: substituted, on 1 October 2007, by section 291(1) of the Taxation (Depreciation, Payment Dates Alignment, FBT, and Miscellaneous Provisions) Act 2006 (2006 No 3).

**15A Change in registered person's taxable period***[Repealed]*

Section 15A: repealed, on 1 October 2007, by section 291(1) of the Taxation (Depreciation, Payment Dates Alignment, FBT, and Miscellaneous Provisions) Act 2006 (2006 No 3).

**15AB Transitional provision: alignment of taxable periods with balance dates***[Repealed]*

Section 15AB: repealed, on 1 October 2007, by section 291(1) of the Taxation (Depreciation, Payment Dates Alignment, FBT, and Miscellaneous Provisions) Act 2006 (2006 No 3).

**15B Taxable periods aligned with balance dates**

- (1) Unless section 15(3) or (4) applies, a person with a provisional tax liability must have a taxable period that is either a 2-month period or a 6-month period.
- (2) A person must have a taxable period that is aligned with the person's balance date under section 33 or 38 of the Tax Administration Act 1994, reflecting the applicable payment dates in schedule 3, part A of the Income Tax Act 2007.
- (3) For the purposes of subsection (2), a person whose balance date changes during an income year must,
  - (a) before the new balance date, use the payment frequency applying at the start of the income year;
  - (b) after the new balance date, use the cycle of taxable periods starting on the first day of the new income year.
- (4) If a person's GST cycle is not aligned with the person's balance date and the person has a provisional tax liability for a tax year, the Commissioner must adjust the person's taxable periods by truncating the last taxable period before the balance date so that the taxable period and income year end on the same date.
- (5) The Commissioner may make the adjustment in subsection (4) if
  - (a) the person's income tax liability indicates that a provisional tax liability is likely to arise;
  - (b) the person asks for the adjustment.
- (6) In this section, **balance date**, for a registered person mean,

- (a) if neither of paragraphs (b) and (c) applies, the person's annual balance date for their accounts for the income year corresponding to the tax year for which the person must provide a return of income under the Tax Administration Act 1994:
- (b) if the person has an income year that coincides with the tax year or is not required to provide a return of income for the tax year, 31 March:
- (c) if the person is a non-resident company that does not have a fixed establishment in New Zealand, 31 March.

Section 15B: inserted, on 1 October 2007, by section 291(1) of the Taxation (Depreciation, Payment Dates Alignment, FBT, and Miscellaneous Provisions) Act 2006 (2006 No 3).

Section 15B(2): amended, on 1 April 2008, by section ZA 2(1) of the Income Tax Act 2007 (2007 No 97).

### **15C Changes in taxable periods**

- (1) A person to whom section 15(1)(b) or (c) applies may apply to the Commissioner, in a way acceptable to the Commissioner, to change the person's taxable period to a 6-month period.
- (2) The factors that the Commissioner must consider in directing a change of taxable period are
  - (a) the person's history in filing returns and paying tax liabilities:
  - (b) the person's financial reporting practices:
  - (c) the nature and volume of the person's taxable supplies:
  - (d) the previous use of a 6-month cycle.
- (3) A person to whom section 15(1)(a) applies may apply to the Commissioner, in a way acceptable to the Commissioner, to change the person's taxable period to a 2-month period.
- (3B) A person to whom section 15(1)(a) or (b) applies may apply to the Commissioner, in a way acceptable to the Commissioner, to change the person's taxable period to a 1-month period.
- (3C) A person to whom section 15(1)(c) applies may apply to the Commissioner, in a way acceptable to the Commissioner, to change the person's taxable period to a 2-month period, unless section 15(4) applies.

- (4) A person whose taxable period is based on a 6-month or 2-month cycle is treated as having changed to a 1-month cycle if
- (a) the threshold in section 15(4) applies at the end of a taxable period to the person's taxable supplies; and
  - (b) the person has not notified the Commissioner of a change of status under section 53(1)(ca) before the end of the next taxable period.
- (5) A return provided after a change in taxable period must not include amounts for a period for which a return has already been provided.

Section 15C: inserted, on 1 October 2007, by section 291(1) of the Taxation (Depreciation, Payment Dates Alignment, FBT, and Miscellaneous Provisions) Act 2006 (2006 No 3).

Section 15C(3B): inserted, on 1 October 2007, by section 214(1) of the Taxation (Savings Investment and Miscellaneous Provisions) Act 2006 (2006 No 81).

Section 15C(3C): inserted, on 1 October 2007, by section 214(1) of the Taxation (Savings Investment and Miscellaneous Provisions) Act 2006 (2006 No 81).

### **15D When change in taxable period takes effect**

- (1) This section applies if a registered person, who qualifies under section 15,
- (a) applies under section 15B(5)(b) or 15C to change the basis on which the person's taxable period is set; or
  - (b) is required because of section 39B of the Tax Administration Act 1994 to change the basis on which the person's taxable period is set.
- (2) A change in taxable period takes effect at the end of the taxable period in which the person applies or is required to change the basis on which the person's taxable period is set.
- (3) Despite subsection (2), for a person to whom section 15B applies, the Commissioner must adjust the effective date of the change in taxable period if, as a result of the change, the person's taxable period is not aligned with the person's balance date.
- (4) Section RC 27 of the Income Tax Act 2007 override this section.

Section 15D: inserted, on 1 October 2007, by section 291(1) of the Taxation (Depreciation, Payment Dates Alignment, FBT, and Miscellaneous Provisions) Act 2006 (2006 No 3).

Section 15D(1)(a): amended, on 1 October 2007, by section 215(1) of the Taxation (Savings Investment and Miscellaneous Provisions) Act 2006 (2006 No 81).

Section 15D(4): amended, on 1 April 2008, by section ZA 2(1) of the Income Tax Act 2007 (2007 No 97).

### **15E Meaning of end of taxable period**

- (1) A taxable period ends on the last day of a month.
- (2) Despite subsection (1), a registered person may apply to the Commissioner to have a taxable period ending on a day that is not more than 7 days before or after the last day of a month.
- (3) Subsection (4) applies if 1 or more of the following events occurs in relation to a registered person:
  - (a) the natural person dies or is made bankrupt;
  - (b) the company goes into liquidation or receivership, or ceases to exist on amalgamation (as defined in section YA 1 of the Income Tax Act 2007).
- (4) Despite subsection (1), if an event referred to in subsection (3) occurs, the date of the event is treated as the end of the person's taxable period.

Section 15E: inserted, on 1 October 2007, by section 291(1) of the Taxation (Depreciation, Payment Dates Alignment, FBT, and Miscellaneous Provisions) Act 2006 (2006 No 3).

Section 15E(3)(b): amended, on 1 April 2008, by section ZA 2(1) of the Income Tax Act 2007 (2007 No 97).

### **16 Taxable period returns**

- (1) A registered person must provide a return setting out the amount of tax payable by them for a taxable period, calculated under section 20.
- (2) A return required by subsection (1) must be provided on or before—
  - (a) the 28th of the month following the end of the taxable period, if paragraph (b) or (c) do not apply; or
  - (b) the 15th day of January, if the month following the end of the taxable period is December; or
  - (c) the 7th day of May, if the month following the end of the taxable period is April.

- (3) If the circumstances of a non-profit body or a particular case mean a variation is required in the date on which a return must be provided, the Commissioner may vary the date.
- (4) A person who ceases to be a registered person must provide a final return for the part of the last taxable period for which they were registered.
- (5) A return required by subsection (4) must be provided on or before—
- (a) the 28th of the month following the end of the taxable period, if paragraph (b) or (c) do not apply; or
  - (b) the 15th day of January, if the month following the end of the taxable period is December; or
  - (c) the 7th day of May, if the month following the end of the taxable period is April.

- (6) A return must contain a notice of the assessment that must be made under section 92B of the Tax Administration Act 1994.

Subsection (1) was amended, as from 8 August 1990, by section 4(1)(a) Goods and Services Tax Amendment Act (No 2) 1990 (1990 No 93) by substituting “the last working day of the month” for “the first day of the second month”.

Subsection (1) first proviso was amended, as from 3 December 1985, by section 14(1) Goods and Services Tax Amendment Act 1986 (1986 No 43) by inserting “any non-profit body or”.

Subsection (1) second proviso was inserted, as from 3 December 1985, by section 14(2) Goods and Services Tax Amendment Act 1986 (1986 No 43).

Subsection (1) second proviso was amended, as from 8 August 1990, by section 4(1)(b) Goods and Services Tax Amendment Act (No 2) 1990 (1990 No 93) by substituting “last working day in December” for “first day of January”.

Subsection (1) second proviso was amended, as from 13 March 1992, by section 5 Goods and Services Tax Amendment Act 1992 (1992 No 2) by substituting “the following year” for “that year”.

Subsection (2) was amended, as from 8 August 1990, by section 4(2) Goods and Services Tax Amendment Act (No 2) 1990 (1990 No 93) by substituting “the last working day of the month following the month in which the cessation of registration occurred” for “one month after so ceasing”.

Subsection (3) was inserted, as from 21 December 2004, by section 146(1) Taxation (Venture Capital and Miscellaneous Provisions) Act 2004 (2004 No 111) with application for taxable periods beginning on or after 1 April 2005.

Section 16 was substituted, as from 31 March 2007, by section 292(1) Taxation (Depreciation, Payment Dates Alignment, FBT, and Miscellaneous Provisions) Act 2006 (2006 No 3) with application for taxable periods ending as from 31 March 2007.

Subsection (2)(a) and (b) was substituted, as from 31 March 2007, by section 216(1) Taxation (Savings Investment and Miscellaneous Provisions) Act 2006

(2006 No 81) with application for taxable periods ending as from 31 March 2007.

Subsection (2)(c) was inserted, as from 31 March 2007, by section 216(1) Taxation (Savings Investment and Miscellaneous Provisions) Act 2006 (2006 No 81) with application for taxable periods ending as from 31 March 2007.

Subsection (5)(a) and (b) was substituted, as from 31 March 2007, by section 216(2) Taxation (Savings Investment and Miscellaneous Provisions) Act 2006 (2006 No 81) with application for taxable periods ending as from 31 March 2007.

Subsection (5)(c) was inserted, as from 31 March 2007, by section 216(2) Taxation (Savings Investment and Miscellaneous Provisions) Act 2006 (2006 No 81) with application for taxable periods ending as from 31 March 2007.

## **17 Special returns**

(1) Where goods are deemed to be supplied by a person pursuant to section 5(2) of this Act, the person selling the goods, whether or not that person is a registered person, shall—

- (a) Furnish to the Commissioner in the prescribed form a return showing—
  - (i) That person's name and address and, if registered, registration number; and
  - (ii) The name, address, and, if registered, registration number of the person whose goods were sold; and
  - (iii) The date of the sale; and
  - (iv) The description and quantity of the goods sold; and
  - (v) The amount for which they were sold and the amount of tax charged on that supply; and
  - (vi) Such other particulars as may be prescribed; and
- (b) Pay to the Commissioner the amount of tax charged on that supply; and
- (c) Furnish to the person whose goods were sold, details of the information shown on the return referred to in paragraph (a) of this subsection,—

and the person selling the goods and the person whose goods were sold shall exclude from any return, other than a return required pursuant to this subsection, which either or both may be required to furnish under this Act, the tax charged on that supply of goods.

- (1B) A return that a person is required to furnish to the Commissioner under subsection (1) must be furnished on or before—
- (a) the 28th of the month following the end of the month in which the relevant sale was made, if paragraphs (b) or (c) do not apply; or
  - (b) the 15th day of January, if November is the month in which the relevant sale was made; or
  - (c) the 7th day of May, if March is the month in which the relevant sale was made.

- (2) Any amount of tax charged on any supply of goods to which this section applies shall be deemed, for the purposes of this Act, to be tax payable and shall be recoverable as a debt due to the Crown.

- (3) A return must contain a notice of the assessment that must be made under section 92B of the Tax Administration Act 1994.

Section 17(1): amended (with effect from 30 November 2007), on 19 December 2007, by section 275(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Subsection (1) was amended, as from 22 June 1987, by section 5 Goods and Services Tax Amendment Act 1987 (1987 No 103) by omitting “registered”.

Subsection (1) was amended, as from 8 August 1990, by section 5(1) Goods and Services Tax Amendment Act (No 2) 1990 (1990 No 93) by substituting “last working day of the month” for “first day of the second month”.

Subsection (1) was amended, as from 31 March 2007, by section 293(1) Taxation (Depreciation, Payment Dates Alignment, FBT, and Miscellaneous Provisions) Act 2006 (2006 No 3) by substituting “the 28th day” for “the last working day” with application for taxable periods ending as from 31 March 2007.

Subsection (1)(a) was amended, as from 3 December 1985, by section 15(1) Goods and Services Tax Amendment Act 1986 (1986 No 43) by inserting “in the prescribed form”.

Paragraph (a)(ii) was amended, as from 22 June 1987, by section 5(b) Goods and Services Tax Amendment Act 1987 (1987 No 103) by inserting “, if registered,”.

Subsection (1)(a)(vi) was substituted, as from 3 December 1985, by section 15(2) Goods and Services Tax Amendment Act 1986 (1986 No 43).

Subsection (1)(c) was substituted, as from 19 December 1989, by section 10 Goods and Services Tax Amendment Act (No 2) 1989 (1989 No 152).

Section 17(1B): inserted (with effect from 30 November 2007), on 19 December 2007, by section 275(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Subsection (3) was inserted, as from 21 December 2004, by section 147(1) Taxation (Venture Capital and Miscellaneous Provisions) Act 2004 (2004 No 111) with application for taxable periods beginning on or after 1 April 2005.

## **18 Other returns**

In addition to the returns specified in sections 16, 17, and 19B, the Commissioner may require any person, whether a registered person or not, to furnish (whether on that person's own behalf or as an agent or trustee) to the Commissioner such further or other returns in the prescribed form as and when the Commissioner requires for the purposes of this Act.

Section 18 was amended, as from 25 November 2003, by section 153 Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 (2003 No 122) by substituting the expression "and 19B" for the words "and 19 of this Act".

## **19 Accounting basis**

- (1) Subject to sections 19A to 19D, every registered person must account for tax payable on an invoice basis for the purpose of section 20.
- (2) The Commissioner may, on application in writing in that behalf by a registered person, direct that for the purposes of section 20 of this Act the registered person account for tax payable—
  - (a) On a payments basis, if the registered person satisfies the requirements of section 19A(1) of this Act; or
  - (b) On a hybrid basis.
- (3) The Commissioner may, on application in writing in that behalf by a registered person who pursuant to a direction of the Commissioner accounts for tax payable on a hybrid basis or a payments basis, direct that the registered person account for tax payable—
  - (a) On an invoice basis; or
  - (b) On a hybrid basis; or
  - (c) On a payments basis, if the registered person satisfies the requirements of section 19A(1) of this Act.
- (4) Where the Commissioner gives a direction in respect of a registered person's accounting basis under subsection (2) or subsection (3) of this section or under section 19A(2) of this Act, the registered person shall account for tax payable on the accounting basis directed by the Commissioner with effect from—

- (a) The commencement of the taxable period immediately following the taxable period during which the direction is given by the Commissioner, in any case to which paragraph (b) or paragraph (c) of this subsection does not apply; or
- (b) The person's registration under this Act, where the direction is given by the Commissioner before the end of the first taxable period of the person that follows that registration; or
- (c) The commencement of such other taxable period as the Commissioner considers equitable, where the Commissioner and the person so agree.

Section 19 was substituted, as from 31 March 1991, by section 3(1) Goods and Services Tax Amendment Act 1991 (1991 No 11).

Subsection (1) was substituted by section 95(1) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39), with application as from 10 October 2000.

#### **19A Requirements for accounting on payments basis**

- (1) The Commissioner shall not direct any registered person to account for tax payable on a payments basis under section 19 of this Act unless—
  - (a) The registered person is—
    - (i)
    - (ii) a local authority specified in an Order in Council made under section 19AB; or
    - (iii) A non-profit body; or
  - (b) In respect of the registered person—
    - (i) At the end of any month, the total value of the person's taxable supplies in the period of 12 months then ending has not exceeded \$1,300,000 (or such greater amount as the Governor-General may, from time to time, by Order in Council declare); or
    - (ii) In the period of 12 months beginning on the first day of any month, the total value of the person's taxable supplies is not likely to exceed the amount specified in or under subparagraph (i) of this paragraph; or

- (c) The Commissioner is satisfied that, due to the nature, volume, and value of taxable supplies made by the registered person and the nature of the accounting system employed by the person, it would be appropriate for the person to furnish returns under this Act on a payments basis.
- (2) Where the Commissioner is satisfied (whether by a notification given by the registered person under section 53(1)(cb) of this Act or otherwise) that a registered person who has been directed to account for tax payable on a payments basis has ceased to satisfy the conditions set out in paragraphs (a) to (c) of subsection (1) of this section, the Commissioner shall either—
  - (a) Direct that the registered person account for tax payable on an invoice basis; or
  - (b) If the registered person so requests in writing, direct that the registered person account for tax payable on a hybrid basis.
- (3) For the purposes of subsection (2) of this section, a registered person shall not be treated as having ceased to satisfy the conditions of subsection (1) of this section by reason only that the total value of the registered person's taxable supplies has exceeded, or as the case may be will exceed, the amount specified by or under subsection (1)(b) of this section solely as a consequence of—
  - (a) any ending of, including a premature ending of, or any substantial and permanent reduction in the size or scale of, any taxable activity carried on by that person; or
  - (b) The replacement of any plant or other capital asset used in any taxable activity carried on by that person.

Sections 19A, 19B, and 19C were inserted, as from 31 March 1991, by section 3(1) Goods and Services Tax Amendment Act 1991 (1991 No 11).

Subsection (1)(a)(i) was repealed, as from 10 April 1995, by section 7 Goods and Services Tax Amendment Act 1995 (1995 No 22).

Subsection (1)(a)(ii) was substituted by section 96(1) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39), with application as from 1 July 2001.

Subsection (1)(b)(i) was amended by section 96(2) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39) by substituting the expression “\$1,300,000” for the expression “\$1,000,000”, with application as from 1 October 2000.

Subsection (2) was amended, as from 23 September 1997, by section 111 Taxation (Remedial Provisions) Act 1997 (1997 No 74) by substituting the portion before para (a).

Subsection (3)(a) was amended by section 96(3) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39) by substituting the words “any ending of, including a premature ending of” for the words “Any cessation of”, with application as from 10 October 2000.

### **19AB Local authorities accounting on payments basis on and after 1 July 2001**

The Governor-General may, by Order in Council, specify—

- (a) a local authority that may continue to account for tax payable on a payments basis under section 19 on and after 1 July 2001; and
- (b) the period for which the local authority may continue to account for tax payable on a payments basis under section 19.

Section 19AB was inserted by section 97(1) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39), with application as from 10 October 2000.

### **19B Particulars to be furnished and prepared where change in accounting basis**

- (1) Where the Commissioner directs a change in a registered person’s accounting basis under section 19 or section 19A of this Act, the registered person shall furnish to the Commissioner particulars in the prescribed form calculating the tax payable in respect of the change in accounting basis.
- (2) The particulars required to be furnished under subsection (1) of this section shall be furnished to the Commissioner not later than the last day for furnishing a return pursuant to section 16 of this Act for the taxable period preceding that in which the direction of the Commissioner takes effect.
- (2B) The particulars required by subsection (1) must be furnished in a return that contains a notice of the assessment that must be made under section 92B of the Tax Administration Act 1994.
- (3) Where the Commissioner directs a change in a registered person’s accounting basis under section 19 or section 19A of this Act, the registered person shall—

- (a) Where the registered person has been directed to change from an invoice to a payments basis of accounting, or from a payments basis to an invoice basis,—
  - (i) Prepare a list of creditors of the registered person in relation to that person's taxable activity, showing the amounts due by that person as at the last day of the taxable period preceding that in which the direction takes effect; and
  - (ii) Prepare a list of debtors of the registered person in relation to that person's taxable activity, showing the amounts due to that person as at the last day of the taxable period preceding that in which the direction takes effect:
- (b) Where the registered person has been directed to change from an invoice to a hybrid basis of accounting, or from a hybrid basis to an invoice basis, prepare a list of creditors of the registered person in relation to that person's taxable activity, showing the amounts due by that person as at the last day of the taxable period preceding that in which the direction takes effect:
- (c) Where that registered person has been directed to change from a payments basis to a hybrid basis of accounting, or from a hybrid basis to a payments basis, prepare a list of debtors of the registered person in relation to that person's taxable activity, showing the amounts due to that person as at the last day of the taxable period preceding that in which the direction takes effect.

Sections 19A, 19B, and 19C were inserted, as from 31 March 1991, by section 3(1) Goods and Services Tax Amendment Act 1991 (1991 No 11).

Subsection (2B) was inserted, as from 21 December 2004, by section 148(1) Taxation (Venture Capital and Miscellaneous Provisions) Act 2004 (2004 No 111) with application for taxable periods beginning on or after 1 April 2005.

**19C Tax payable, or refund, where change in accounting basis**

- (1) Every registered person whose accounting basis is changed pursuant to section 19 or section 19A of this Act shall, not later than the last day allowed under section 19B(2) of this Act for furnishing particulars in respect of the change, pay to the

Commissioner the tax payable (if any) as determined pursuant to this section.

- (2) Where a registered person changes from an invoice basis to a payments basis of accounting, the tax payable under subsection (1) of this section shall be an amount determined in accordance with the following formula:

$$a - b$$

where—

- a is an amount equal to the aggregate amount of the input tax deducted pursuant to section 20(3) of this Act in relation to the amounts due that are required to be shown in the list of creditors required to be prepared by the registered person under section 19B(3)(a)(i) of this Act; and
- b is an amount equal to the aggregate amount of output tax accounted for pursuant to section 20(3) of this Act in relation to the amounts due that are required to be shown in the list of debtors required to be prepared by the registered person under section 19B(3)(a)(ii) of this Act.
- (3) Where a registered person changes from a payments basis to an invoice basis of accounting, the tax payable under subsection (1) of this section shall be an amount determined in accordance with the following formula:

$$a - b$$

where—

- a is an amount equal to the aggregate amount of output tax that would have been accounted for pursuant to section 20(3) of this Act, in relation to the amounts due that are required to be shown in the list of debtors required to be prepared by the registered person under section 19B(3)(a)(ii) of this Act, if the person had been accounting for tax payable on an invoice basis; and
- b is an amount equal to the aggregate amount of the input tax that would have been deducted pursuant to section 20(3) of this Act, in relation to the amounts due that are required to be shown in the list of creditors required to be prepared by the registered person under section

19B(3)(a)(i) of this Act, if the registered person had been accounting for tax payable on an invoice basis.

- (4) Where a registered person changes from a hybrid basis to an invoice basis of accounting, the tax payable under subsection (1) of this section shall be an amount determined in accordance with the following formula:

$$a - b$$

where—

a is zero; and

b is an amount equal to the aggregate amount of input tax that would have been deducted pursuant to section 20(3) of this Act, in relation to the amounts due that are required to be shown in the list of creditors required to be prepared by the registered person under section 19B(3)(b) of this Act, if the person had been accounting for tax payable on an invoice basis.

- (5) Where a registered person changes from a hybrid basis to a payments basis of accounting, the tax payable under subsection (1) of this section shall be an amount determined in accordance with the following formula:

$$a - b$$

where—

a is zero; and

b is an amount equal to the aggregate amount of output tax accounted for pursuant to section 20(3) of this Act in relation to the amounts due that are required to be shown in the list of debtors required to be prepared by the registered person under section 19B(3)(c) of this Act.

- (6) Where a registered person changes from an invoice basis to a hybrid basis of accounting, the tax payable under subsection (1) of this section shall be an amount determined in accordance with the following formula:

$$a - b$$

where—

a is an amount equal to the aggregate amount of input tax deducted pursuant to section 20(3) of this Act in relation to the amounts due that are required to be shown in the

- list of creditors required to be prepared by the registered person under section 19B(3)(b) of this Act; and
- b is zero.
- (7) Where a registered person changes from a payments basis to a hybrid basis of accounting, the tax payable under subsection (1) of this section shall be an amount determined in accordance with the following formula:
- a - b
- where—
- a is an amount equal to the aggregate amount of output tax that would have been accounted for pursuant to section 20(3) of this Act, in relation to the amounts due that are required to be shown in the list of debtors required to be prepared by the registered person under section 19B(3)(c) of this Act, if the person had been accounting for tax payable on a hybrid basis; and
- b is zero.
- (8) Subject to this Act, if, in relation to any particulars required to be furnished by section 19B of this Act, the amount determined in accordance with subsection (2) or subsection (3) or subsection (4) or subsection (5) of this section is a negative amount, the amount of that negative amount shall be refunded to the registered person by the Commissioner pursuant to section 46 of this Act.
- (9) For the purposes of this Act, any previous adjustment made to input tax or output tax, as the case may be, when a registered person changed—
- (a) From an invoice basis to a payments or a hybrid basis, as the case may be; or
- (b) From a payments basis to an invoice or a hybrid basis, as the case may be; or
- (c) From a hybrid basis to an invoice or a payments basis, as the case may be,—
- shall be deemed to have been deducted, or accounted for, as the case may be, pursuant to section 20(3) of this Act.

Sections 19A, 19B, and 19C were inserted, as from 31 March 1991, by section 3(1) Goods and Services Tax Amendment Act 1991 (1991 No 11).

Subsections (2) to (7) were substituted, as from 13 March 1992, by section 6 Goods and Services Tax Amendment Act 1992 (1992 No 2).

### **19D Invoice basis for supplies over \$225,000**

- (1) A registered person who makes a supply of goods and services for a consideration of more than \$225,000 must account for tax payable on an invoice basis for that supply.
- (2) Subsection (1) does not apply if the supply of goods and services is a **short term agreement for the sale and purchase of property or services**, as that term is defined in section YA 1 of the Income Tax Act 2007, except the reference to 93rd day is to be read as on or before the day that is 1 year.
- (3) For the purpose of subsection (1), the Commissioner may treat a registered person as having made a supply of goods and services for a consideration of more than \$225,000 if—
  - (a) the person has made more than one supply and the sum of the consideration for each supply is more than \$225,000 irrespective of whether each supply is one to which subsection (2) applies; and
  - (b) the Commissioner considers that the person made more than one supply to avoid the application of subsection (1).

Section 19D was inserted by section 98(1) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39), with application as from 10 October 2000.

Section 19D(2): amended, on 1 April 2008, by section ZA 2(1) of the Income Tax Act 2007 (2007 No 97).

Subsection (2) was amended, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35) by substituting the words “Income Tax Act 2004, except that the reference to ‘93rd day’ is to be read as ‘on or before the day that is 1 year’” for the words “Income Tax Act 1994, except the reference to ‘93 days’ is to be read as being to ‘1 year’”.

### **20 Calculation of tax payable**

- (1) In respect of each taxable period every registered person shall calculate the amount of tax payable by that registered person in accordance with the provisions of this section.
- (2) Notwithstanding any other provision in this Act, no deduction of and no deduction calculated under section 25(2)(b) or (5) input tax shall be made in respect of a supply, unless—
  - (a) A tax invoice or debit note or credit note, in relation to that supply, has been provided in accordance with sections 24, 24BA, and 25 of this Act and is held by

- the registered person making that deduction at the time that any return in respect of that supply is furnished; or
- (b) A tax invoice is not required to be issued pursuant to section 24(5) or section 24(6) of this Act, or a debit note or credit note is not required to be issued pursuant to section 25 of this Act; or
  - (c) Sufficient records are maintained as required pursuant to section 24(7) of this Act where the supply is a supply of secondhand goods to which that section relates; or
  - (d) the supply is a supply of services that is treated by section 5B as being made by the recipient and the recipient has accounted for the output tax charged in respect of the supply:

Provided that where a tax invoice or debit note or credit note in relation to that supply has been provided in accordance with this Act, the Commissioner may determine that no deduction for input tax in relation to that supply shall be made unless that tax invoice or debit note or credit note is retained in accordance with the provisions of section 75 of this Act.

- (3) Subject to this section, in calculating the amount of tax payable in respect of each taxable period, there shall be deducted from the amount of output tax of a registered person attributable to the taxable period—
  - (a) In the case of a registered person who is required to account for tax payable on an invoice basis pursuant to section 19 of this Act, the amount of the following:
    - (i) input tax in relation to the supply of goods and services (not being a supply of secondhand goods to which section 3A(1)(c) of the **input tax** definition applies), made to that registered person during that taxable period:
    - (ia) input tax in relation to the supply of secondhand goods to which section 3A(1)(c) of the **input tax** definition applies, to the extent that a payment in respect of that supply has been made during that taxable period:
    - (ii) input tax invoiced or paid, whichever is the earlier, pursuant to section 12 of this Act during that taxable period:

- (iii) any amount calculated in accordance with any one of sections 25(2)(b), 25(5), 25AA(2)(b) or 25AA(3)(b); and
- (b) In the case of a registered person who is required to account for tax payable on a payments basis or a hybrid basis pursuant to section 19 of this Act, the amount of the following:
  - (i) input tax in relation to the supply of goods and services made to that registered person, being a supply of goods and services which is deemed to take place pursuant to section 9(1) or section 9(3)(a) or section 9(3)(aa) or section 9(6) of this Act, to the extent that a payment in respect of that supply has been made during the taxable period:
  - (ii) input tax paid pursuant to section 12 of this Act during that taxable period:
  - (iii) input tax in relation to the supply of goods and services made during that taxable period to that registered person, not being a supply of goods and services to which subparagraph (i) of this paragraph applies:
  - (iv) any amount calculated in accordance with any one of sections 25(2)(b), 25(5), 25AA(2)(b) or 25AA(3)(b), to the extent that a payment has been made in respect of that amount; and
- (c)
- (d) An amount equal to the tax fraction of any payment made during the taxable period by that registered person to another person pursuant to any contract of insurance: Provided that this paragraph—
  - (i) Shall only apply where the supply of that contract of insurance is a taxable supply, or where the supply of that contract of insurance would have been a taxable supply if the time of performance of that supply had been on or after the 1st day of October 1986:
  - (ii) Shall not apply where that payment is in respect of the supply of goods and services

- to the registered person or the importation of any goods by that registered person:
- (iii) Shall not apply where the supply of that contract of insurance is a supply charged with tax at the rate of zero percent pursuant to section 11, 11A or 11B of this Act and that other person is, at the time that that payment is made, not a registered person and a non-resident:
  - (iv) Shall not apply where that payment results from a supply of goods and services to that other person where those goods are situated outside New Zealand or those services are physically performed outside New Zealand at the time of that supply:
  - (iva) does not apply if the payment is made to a person who, on the date the payment is made, is not a registered person and is a non-resident:
  - (v) Does not apply where that payment is made in respect of any entitlement for any loss of earnings (being earnings within the meaning of the Accident Compensation Act 1982 or the Accident Rehabilitation and Compensation Insurance Act 1992 or the Accident Insurance Act 1998) or the Injury Prevention, Rehabilitation, and Compensation Act 2001; and
- (db) an amount equal to the tax fraction of the payment of a recovered amount to which section 5(13B) applies; and
  - (da)
  - (e) Any amount calculated in accordance with sections 21E, 21F, 21G and 21H in relation to any goods and services so applied during that taxable period; and
  - (ea)
  - (f) Any amount of input tax in relation to any supply in respect of which paragraph (a) of, or the proviso to, subsection (2) of this section has operated to deny a deduction of input tax, and that registered person has ob-

tained, during the taxable period, a tax invoice in relation to that supply; and

- (g) Any amount calculated in accordance with section 20A of this Act in relation to any goods and services so supplied during that taxable period; and
- (h) any amount calculated in accordance with section 20C in relation to supplies of financial services in respect of that taxable period;
- (i) any amount calculated in accordance with section 26:

Provided that a registered person who is entitled to deduct an amount from the output tax attributable to a taxable period may deduct that amount from the output tax attributable to a later taxable period if the amount has not previously been deducted from the output tax of the registered person and—

- (a) the later tax period begins on or before the date that is the 2nd anniversary of the earlier of the following:
    - (i) the date on which the registered person makes the payment for the taxable supply to which the deduction relates;
    - (ii) the date on which a tax invoice is issued for the taxable supply to which the deduction relates;
  - (b) the failure of the registered person to make the deduction in the earlier taxable period arises from—
    - (i) an inability of the registered person to obtain a tax invoice;
    - (ii) a dispute over the proper amount of the payment for the taxable supply to which the deduction relates;
    - (iii) a mistaken understanding on the part of the registered person that the supply to which the deduction relates was not a taxable supply;
    - (iv) a clear mistake or simple oversight of the registered person.
- (3A) For the purpose of subsection (3), output tax does not include the tax on the taxable value of a fringe benefit provided or

granted to another person under the FBT rules of the Income Tax Act 1994.

(3AB)

(3B)

(4) For the purpose of subsection (3), output tax in relation to a supply made by a registered person must be attributed to a taxable period—

(a) in the case of a registered person who is required to account for tax payable on an invoice or a hybrid basis under section 19, if the supply is made or is deemed to be made during the taxable period; or

(b) in the case of a registered person who is required to account for tax payable on a payments basis under section 19—

(i) to the extent that payment for the supply has been received during the taxable period, if the supply is a supply of goods and services which is deemed to take place under any one of sections 9(1), 9(3)(a), 9(3)(aa), 9(6), 9(8), 25(2)(a), 25(4) and is not treated by section 8(4B) as being made in New Zealand; or

(ib) to the extent that payment for the supply has been made during the taxable period, if the supply is a supply of services that is treated as being made in New Zealand by section 8(4B) together with any one of sections 9(1), 9(3)(a), 9(3)(aa), 9(6), 9(8), 25AA(2)(a) or 25AA(3)(a); or

(ii) if the supply of goods and services is made during the taxable period by the registered person and neither of subparagraphs (i) and (ib) applies.

(5) If, in relation to any taxable period and any registered person, the total amount that may be deducted under subsection (3) exceeds the aggregate amount of the output tax of that registered person attributable to that taxable period, the amount of the excess shall, subject to this Act, be refunded to that registered person by the Commissioner pursuant to section 46 of this Act.

Subsection (2) (that part before paragraph (a)) was amended, as from 25 November 2003, by section 154(1) Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 (2003 No 122) by inserting the words “and no deduction calculated under section 25(2)(b) or (5)” after the words “input tax”.

Section 20(2)(a): amended, on 19 December 2007, by section 276 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Subsection (2)(a) was amended, as from 3 December 1985, by section 17(1) Goods and Services Tax Amendment Act 1986 (1986 No 43) by inserting the words “and is held by the registered person making that deduction at the time that any return in respect of that supply is furnished”

Subsection (2)(b) was amended, as from 3 December 1985, by section 17(2) Goods and Services Tax Amendment Act 1986 (1986 No 43) by substituting the words “section 25 of this Act; or” for the words “section 25 of this Act.”

Subsection (2)(c) was inserted, as from 3 December 1985, by section 17(3) Goods and Services Tax Amendment Act 1986 (1986 No 43).

Subsection (2)(c) was amended, as from 1 January 2005, by section 154(2) Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 (2003 No 122) by substituting the words “relates; or” for the expression “relates:”. See clause 2 Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act Commencement Order 2004 (SR 2004/226).

Subsection (2)(d) was inserted, as from 1 January 2005, by section 154(2) Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 (2003 No 122). See clause 2 Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act Commencement Order 2004 (SR 2004/226).

Subsection (3)(a) (that part before subpara (i)) was amended, as from 25 November 2003, by section 154(3)(a) Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 (2003 No 122) by substituting the words “amount of the following:” for the words “amount of input tax—”.

Subsection (3)(a)(i) was amended, as from 22 March 1989, by section 6(1) Goods and Services Tax Amendment Act 1989 (1989 No 8) by inserting the words “(not being a supply of secondhand goods to which paragraph (c) of the definition of the term **input tax** in section 2(1) of this Act applies),”

Subsection (3)(a)(i) was amended by section 99(1) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39) by substituting the words “section 3A(1)(c) of the **input tax** definition applies” for the words “paragraph (c) of the definition of the term **input tax** in section 2(1) of this Act applies”, with application as from 10 October 2000.

Subsection (3)(a)(i) was amended, as from 25 November 2003, by section 154(3)(b) Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 (2003 No 122) by inserting the words “input tax” before the words “in relation to”.

Subsection (3)(a)(ia) was inserted, as from 22 March 1989, by section 6(2) Goods and Services Tax Amendment Act 1989 (1989 No 8).

Subsection (3)(a)(ia) was amended by section 99(1) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39) by substituting the words “section 3A(1)(c) of the **input tax** definition applies” for the words “paragraph (c) of the definition of the term **input tax** in section 2(1) of this Act applies”, with application as from 10 October 2000.

Subsection (3)(a)(ia) was amended, as from 25 November 2003, by section 154(3)(c) Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 (2003 No 122) by inserting the words “input tax” before the words “in relation to”.

Subsection (3)(a)(ii) was amended, as from 3 December 1985, by section 17(4)(a) Goods and Services Tax Amendment Act 1986 (1986 No 43) by substituting the words “Invoiced or paid, whichever is the earlier,” for the word “paid”.

Subsection (3)(a)(ii) was amended, as from 3 December 1985, by section 17(4)(b) Goods and Services Tax Amendment Act 1986 (1986 No 43) by substituting the words “taxable period” for the words “taxable period; and”.

Subsection (3)(a)(ii) was amended, as from 1 October 1996, by section 289(1) Customs and Excise Act 1996 (1996 No 27) by omitting the words “or section 13”.

Subsection (3)(a)(ii) was amended, as from 25 November 2003, by section 154(3)(d) Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 (2003 No 122) by inserting the words “input tax” before the words “invoiced or paid”.

Subsection (3)(a)(iii) was inserted, as from 3 December 1985, by section 17(5) Goods and Services Tax Amendment Act 1986 (1986 No 43).

Subsection (3)(a)(iii) was substituted, as from 25 November 2003, by section 154(3)(e) Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 (2003 No 122).

Subsection (3)(b) was amended, as from 1 April 1991, by section 4(1) Goods and Services Tax Amendment Act 1991 (1991 No 11) by inserting the words “or a hybrid basis”.

Subsection (3)(b) (that part before subpara (i)) was amended, as from 25 November 2003, by section 154(4)(a) Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 (2003 No 122) by substituting the words “amount of the following:” for the words “amount of input tax—”.

Subsection (3)(b)(i) was amended, as from 3 December 1985, by section 17(6) Goods and Services Tax Amendment Act 1986 (1986 No 43) by inserting the expression “or section 9(3)(aa)”.

Subsection (3)(b)(i) was amended, as from 25 November 2003, by section 154(4)(b) Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 (2003 No 122) by inserting the words “input tax” before the words “in relation to”.

Subsection (3)(b)(ii) was amended, as from 1 October 1996, by section 289(1) Customs and Excise Act 1996 (1996 No 27) by omitting the words “or section 13”.

Subsection (3)(b)(ii) was amended, as from 25 November 2003, by section 154(4)(c) Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 (2003 No 122) by inserting the words “input tax” before the word “paid”.

Subsection (3)(b)(iii) was amended, as from 3 December 1985, by section 17(7) Goods and Services Tax Amendment Act 1986 (1986 No 43) by substituting the word “applies” for the words “applies; and”.

Subsection (3)(b)(iii) was amended, as from 25 November 2003, by section 154(4)(d) Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 (2003 No 122) by inserting the words “input tax” before the words “in relation to”.

Subsection (3)(b)(iv) was inserted, as from 3 December 1985, by section 17(8) Goods and Services Tax Amendment Act 1986 (1986 No 43).

Subsection (3)(b)(iv) was substituted, as from 25 November 2003, by section 154(4)(e) Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 (2003 No 122).

Subsection (3)(c) was repealed, as from 3 December 1985, by section 17(9)(a) Goods and Services Tax Amendment Act 1986 (1986 No 43).

Subsection (3)(d) (that part before the proviso) was amended by section 99(2) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39) by omitting the word “indemnify”, with application as from 10 October 2000.

Subsection (3)(d) proviso paragraph (i) was amended, as from 3 December 1985, by section 17(9)(b) Goods and Services Tax Amendment Act 1986 (1986 No 43), by inserting the words “, or where the supply of that contract of insurance would have been a taxable supply if the time of performance of that supply had been on or after the 1st day of October 1986”.

Subsection (3)(d) proviso paragraph (iii) was inserted, as from 3 December 1985, by section 17(10) Goods and Services Tax Amendment Act 1986 (1986 No 43).

Subsection (3)(d) proviso paragraph (iii) was amended by section 99(3) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39) by substituting the words “section 11, 11A or 11B” for the words “section 11 of this Act”, with application as from 10 October 2000.

Subsection (3)(d) proviso paragraph (iii) was amended, as from 25 November 2003, by section 154(5) Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 (2003 No 122) by substituting the words “a non-resident” for the words “not resident in New Zealand”.

Subsection (3)(d) proviso paragraph (iv) was inserted, as from 3 December 1985, by section 17(10) Goods and Services Tax Amendment Act 1986 (1986 No 43).

Subsection (3)(d) proviso paragraph (iva) was inserted by section 99(5) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39), with application as from 10 October 2000.

Subsection (3)(d) proviso paragraph (iva) was amended, as from 25 November 2003, by section 154(5) Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 (2003 No 122) by substituting the words “a non-resident” for the words “not resident in New Zealand”.

Subsection (3)(d) proviso paragraph (v) was inserted, as from 23 September 1987, by section 3 Goods and Services Tax Amendment Act (No 2) 1987 (1987 No 191).

Subsection (3)(d) proviso paragraph (v) was amended, as from 1 April 1992, by section 178 Accident Rehabilitation and Compensation Insurance Act 1992 (1992 No 13) by adding the words “or the Accident Rehabilitation and Compensation Insurance Act 1992”.

Subsection (3)(d) proviso paragraph (v) was substituted, as from 19 December 1998, by section 416 Accident Insurance Act 1998 (1998 No 114).

Subsection (3)(d) proviso paragraph (v) was amended, as from 1 April 2002, by section 338 Injury Prevention, Rehabilitation, and Compensation Act 2001

(2001 No 49), by inserting, after the words “the Accident Insurance Act 1998”, the words “or the Injury Prevention, Rehabilitation, and Compensation Act 2001”. See Part 10 of that Act for provisions relating to transition from competitive provisions of workplace accident insurance. See Part 11 of that Act for transitional provisions relating to entitlements provided by Corporation.

Subsection (3)(da) was inserted, as from 3 December 1985, by section 17(11) Goods and Services Tax Amendment Act 1986 (1986 No 43), and repealed, as from 1 August 1990, by section 8(1) Goods and Services Tax Amendment Act 1990 (1990 No 64).

Subsection (3)(db) was inserted, after subsection (3)(d), by section 99(4) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39), with application as from 10 October 2000.

Subsection (3)(e) was amended by section 99(6) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39) by substituting the words “sections 21E, 21F, 21G and 21H” for the words “section 21(5) of this Act”, with application as from 10 October 2000.

Subsection (3)(ea) was inserted, as from 1 April 1988, by section 10(1) Goods and Services Tax Amendment Act 1988 (1988 No 7).

Subsection (3)(ea) was repealed by section 99(7) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39), with application on 10 October 2000.

Subsection (3)(g) was inserted, as from 24 March 1988, by section 11(2) Goods and Services Tax Amendment Act 1988 (1988 No 7).

Subsection (3)(g) was amended, as from 25 November 2003, by section 154(6) Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 (2003 No 122) by substituting the words “period; and” for the expression “period:”.

Subsection (3)(h) and (i) was inserted, as from 25 November 2003, by section 154(6) Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 (2003 No 122).

Subsection (3) second and third provisos were inserted, as from December 1985, by section 17(12) Goods and Services Tax Amendment Act 1986 (1986 No 43)).

Subsection (3) second and third provisos were repealed, as from 1 April 1988, by section 10(2) Goods and Services Tax Amendment Act 1988 (1988 No 7).

Subsection (3) proviso was substituted, as from 21 December 2004, by section 149(1) Taxation (Venture Capital and Miscellaneous Provisions) Act 2004 (2004 No 111) with application for taxable periods beginning on or after 1 April 2005.

Subsection (3A) was inserted, as from 1 April 1988, by section 10(3) Goods and Services Tax Amendment Act 1988 (1988 No 7).

Subsection (3A) was substituted, as from 1 August 1990, by section 8(2) Goods and Services Tax Amendment Act 1990 (1990 No 64).

Subsection (3A) was repealed by section 99(7) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39) with application on 10 October 2000.

A new subsection (3A) was inserted by section 64(1) Taxation (Beneficiary Income of Minors, Services-Related Payments and Remedial Matters) Act 2001 (2001 No 4) with application to fringe benefits provided or granted: (a) as from 1 January 2002, for an employer who pays fringe benefit tax on a quarterly

basis; (b) as from 1 April 2001, for an employer who pays fringe benefit tax on an annual basis; and (c) as from the 2000-01 income year, for an employer who pays fringe benefit tax on an income year basis. *See* section 64(3) of that Act which states that “if a fringe benefit is provided or granted before the relevant time in subsection (1) and the tax payable for the taxable period in which the fringe benefit is provided or granted has not yet been paid, a registered person must treat the fringe benefit as one to which subsection (1) applies.”

Subsection (3AB) was inserted, as from 1 August 1990, by section 8(2) Goods and Services Tax Amendment Act 1990 (1990 No 64).

Subsection (3AB) was repealed by section 99(7) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39), with application on 10 October 2000.

Subsection (3B) was inserted, as from 23 March 1989, by section 19 of the Finance Act 1989 (1989 No 13).

Subsection (3B) was repealed by section 99(7) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39), with application on 10 October 2000.

Subsection (4) was amended, as from 1 August 1990, by section 8(3) Goods and Services Tax Amendment Act 1990 (1990 No 64) by substituting the expression “subsections (3), (3A), and (3B)” for the expression “subsection (3)”.

Subsection (4)(a) was amended, as from 1 April 1991, by section 4(2) Goods and Services Tax Amendment Act 1991 (1991 No 11) by inserting the words “or a hybrid basis”.

Subsection (4)(b)(i) was amended, as from 3 December 1985, by section 17(13) Goods and Services Tax Amendment Act 1986 (1986 No 43) by substituting the words “or section 9(3)(aa) or section 9(6) or section 25(2)(a) or section 25(4)” for the words “or section 9(4) or section 9(6)”.

Subsection (4) was substituted by section 99(8) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39), with application as from 10 October 2000.

Subsection (4)(b)(i) was amended, as from 25 November 2003, by section 154(7)(a) Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 (2003 No 122) by substituting the words “25(4) and is not treated by section 8(4B) as being made in New Zealand; or” for the words “or 25(4); or”.

Subsection (4)(b)(ib) was inserted, as from 25 November 2003, by section 154(7)(a) Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 (2003 No 122).

Subsection (4)(b)(ii) was substituted, as from 25 November 2003, by section 154(7)(b) Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 (2003 No 122).

Subsection (5) was amended by section 99(9) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39) by omitting the words “of this section and section 83(2) of this Act”, with application as from 10 October 2000.

## **20A Goods and services tax incurred relating to determination of liability to tax**

- (1) For the purposes of this section,—

**Assessable income***[Repealed]*

Assessable income: repealed by section 484 Taxation (Core Provisions) Act 1996 (1996 No 67) with application as from 1 April 1997.

*[Repealed]*

**Goods and services tax payable—**

- (a) Means an amount of goods and services tax calculated in accordance with sections 19 to 20 of this Act; and
- (b) Includes—
  - (i) Any amount referred to in section 17(2) or section 51B of this Act; and
  - (ii) Any amount refundable by the Commissioner pursuant to section 19C or section 20 of this Act.

goods and Services tax payable: paragraph (a) was amended, as from 1 April 1991, section 5(1) Goods and Services Tax Amendment Act 1991 (1991 No 11) by substituting the words “sections 19 to 20” for the words “sections 19 and 20”, and by substituting, in para (b) of that definition, the expression “section 19C” for the expression “section 19”.

goods and Services tax payable: paragraph (b) was amended, as from 21 December 2004, by section 150 Taxation (Venture Capital and Miscellaneous Provisions) Act 2004 (2004 No 111) by substituting the words “section 51B” for the words “section 27(6)”.

**Taxable income, tax year and taxpayer** have the same meanings as in section YA 1 of the Income Tax Act 2007.

- (2) Subject to this section, any goods and services acquired by the registered person in connection with—
  - (a) The calculation of the taxable income of the registered person for any tax year:
  - (b) The calculation or determination of the goods and services tax payable by the registered person for any taxable period:
  - (c) The preparation, institution, or presentation of an objection or challenge to or an appeal against or in consequence of any determination or assessment made, in respect of the registered person, by the Commissioner under the provisions of the Tax Administration Act 1994 or the Goods and Services Tax Act 1985:
  - (d) Any contribution by the registered person towards the expenditure incurred by any other taxpayer or registered person, as the case may be, where—
    - (i) If the expenditure were incurred by the first-mentioned registered person, it would be an allow-

able deduction in calculating the taxable income of that person or allowable in the calculation or determination of any goods and services tax payable by that person; and

- (ii) The first-mentioned registered person has objected to or challenged or appealed against an assessment or determination made, in relation to the matter by, the Commissioner under the provisions of the Income Tax Act 1976 or the Tax Administration Act 1994 or the Goods and Services Tax Act 1985,—

shall be deemed to be goods and services acquired by the registered person for the principal purpose of making taxable supplies; and the Commissioner shall allow that person to make a deduction under section 20(3) of this Act of the tax charged thereon.

- (3) This section shall not apply in relation to any goods and services acquired by the registered person in connection with—
  - (a) Any matter or assessment arising from a return (being a return of income furnished under the provisions of the Income Tax Act 1976 or the Tax Administration Act 1994 or a return furnished under the provisions of the Goods and Services Tax Act 1985) that, in the opinion of the Commissioner, was fraudulent or wilfully misleading;
  - (b) Any offence under any of the Inland Revenue Acts;
  - (c) Any assessment of penal tax under the Income Tax Act 1976 or the Tax Administration Act 1994 or the Goods and Services Tax Act 1985 (not being an assessment which is subsequently cancelled);
  - (ca) Any assessment of a shortfall penalty under the Tax Administration Act 1994 (not being an assessment which is subsequently cancelled);
  - (d) Any objection or challenge or appeal which, in the opinion of the Commissioner, is of an inconsequential or frivolous nature.
- (4) Any amount received by the registered person at any time, whether by way of reimbursement, award of the Court, recovery, or otherwise howsoever in respect of goods and services

deemed under this section to be acquired by the registered person for the principal purpose of making taxable supplies, shall be deemed to be supplied by that registered person in the course of a taxable activity in the taxable period in which it is received.

Section 20A was inserted, as from 24 March 1988, by section 11(1) Goods and Services Tax Amendment Act 1988 (1988 No 7).

Taxable income, income year and taxpayer: this definition was inserted by section 484 Taxation (Core Provisions) Act 1996 (1996 No 67) with application as from 1 April 1997.

Section 20A(1) **taxable income, tax year, and taxpayer**: amended, on 1 April 2008, by section ZA 2(1) of the Income Tax Act 2007 (2007 No 97).

Taxable income, income year and taxpayer: this definition was amended, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35) by substituting the words “Income Tax Act 2004” for the words “Income Tax Act 1994”.

Taxable income, income year and taxpayer: this definition was amended, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35) by substituting the words “tax year” for the words “income year”.

Subsection (2)(a) was amended by section 484 Taxation (Core Provisions) Act 1996 (1996 No 67) by substituting the words “of the taxable” for the words “or determination of the assessable” with application as from 1 April 1997.

Subsection (2)(c) was amended, as from 1 October 1996, by section 3(1)(a) Goods and Services Tax Amendment Act 1996 (1996 No 59) by inserting, after the word “objection”, the words “or challenge”. See section 1(3) of that Act as to the application of this amendment in relation to other provisions of this Act.

Subsection (2)(c) was amended by section 484 Taxation (Core Provisions) Act 1996 (1996 No 67) by substituting the words “Tax Administration Act 1994” for the words “Income Tax Act 1976” with application as from 1 April 1997.

Subsection (2)(d)(i) was substituted by section 484 Taxation (Core Provisions) Act 1996 (1996 No 67) with application as from 1 April 1997.

Subsection (2)(d)(ii) was amended, as from 1 October 1996, by section 3(1)(b) Goods and Services Tax Amendment Act 1996 (1996 No 59) by inserting the words “or challenged”. See section 1(3) of that Act as to the application of this amendment in relation to other provisions of this Act.

Subsection (2)(d)(ii) was amended by section 484 Taxation (Core Provisions) Act 1996 (1996 No 67) by inserting the words “or the Tax Administration Act 1994” with application as from 1 April 1997.

Subsection (2) was amended, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35) by substituting the words “tax year” for the words “income year”.

Subsection (3)(a) was amended by section 484 Taxation (Core Provisions) Act 1996 (1996 No 67) by inserting the words “or the Tax Administration Act 1994” with application as from 1 April 1997.

Subsection (3)(ca) was inserted by section 3(2) Goods and Services Tax Amendment Act 1996 (1996 No 59) with application to tax obligations, liabilities, and rights that are to be performed under or arise in relation to supplies made in respect of taxable periods commencing as from 1 April 1997. *See* section 1(3) of that Act as to the application of this amendment in relation to other provisions of this Act.

Subsection (3)(c) was amended by section 484 Taxation (Core Provisions) Act 1996 (1996 No 67) by inserting the words “or the Tax Administration Act 1994” with application as from 1 April 1997.

Subsection (3)(d) was amended, as from 1 October 1996, by section 3(3) Goods and Services Tax Amendment Act 1996 (1996 No 59) by inserting, after the words “objection or”, the words “challenge or”. *See* section 1(3) of that Act as to the application of this amendment in relation to other provisions of this Act.

## **20B Allocation of taxable supplies following investigation by Commissioner**

- (1) For the purposes of this section—

**Discrepancy** means any understatement or overstatement of the taxable supplies made or received by a registered person calculated or otherwise ascertained in respect of any specified period

**Specified period** means any period, being a period that extends over more than a single taxable period, to which a discrepancy relates

**Tax discrepancy**, in relation to a discrepancy, means an amount equal to the tax fraction (being the tax fraction applicable to the taxable period, or any part of a taxable period, in relation to which the discrepancy has been deemed to have occurred) of the amount of the taxable supplies made or received by a registered person that have been understated or overstated.

- (2) For the purposes of this Act, in any case where, upon investigation by the Commissioner of the liability of a registered person for tax, the Commissioner has calculated or otherwise ascertained a discrepancy in relation to any specified period then,—

- (a) Subject to paragraphs (b) and (c) of this subsection, the amount of the discrepancy shall be deemed to be taxable supplies made or received (as the case may be) by the registered person at a uniform daily rate throughout

that specified period, and those taxable supplies shall be deemed to have been so made or received by the registered person in the taxable periods, or parts thereof, included in the specified period:

- (b) Subject to paragraph (c) of this subsection, where the Commissioner is satisfied that the registered person did not carry on the taxable activity for any part of any specified period, the amount of the discrepancy shall be deemed to be taxable supplies made or received (as the case may be) by the registered person at a uniform daily rate throughout the part of the specified period in which the taxable activity was carried on, and those taxable supplies shall be deemed to be so made or received by the registered person in the taxable periods, or parts thereof, in which the taxable activity was carried on during the specified period:
  - (c) Where the registered person satisfies the Commissioner that it would be appropriate for the amount of the discrepancy to be allocated on a basis otherwise than in accordance with paragraph (a) or paragraph (b) of this subsection, the amount of the discrepancy shall be allocated on that basis, and the amount so allocated shall be deemed to be taxable supplies made or received (as the case may be) by the registered person in the taxable periods, or parts thereof, to which the discrepancy has been so allocated.
- (3) For the purposes of section 20 of this Act, where a discrepancy has been deemed pursuant to this section to be taxable supplies made or received by a registered person in respect of any taxable period or any part of a taxable period, the tax discrepancy calculated in respect of the discrepancy shall be deemed to be output tax or, as the case may be, input tax in respect of that taxable period or part of a taxable period.

Section 20B was inserted, as from 22 March 1989, by section 7(1) Goods and Services Tax Amendment Act 1989 (1989 No 8).

**20C Goods and services tax incurred in making certain supplies of financial services**

Subject to this section, a registered person who has made an election under section 20F and who in respect of a taxable period supplies financial services to another supplier of financial services (called in this section a **direct supplier**) may make for each direct supplier a deduction under section 20(3)(h) of an amount given by the following formula:

$$a \times \frac{b}{c} \times \frac{d}{e}$$

where—

- a is the total amount in respect of the taxable period that the registered person—
  - (a) would not be able to deduct under section 20(3) in the absence of this section; and
  - (b) would be able to deduct under section 20(3), other than under section 20(3)(h), if all supplies of financial services by the registered person were taxable supplies:
- b is the total value of exempt supplies of financial services by the registered person to the direct supplier in respect of the taxable period:
- c is the total value of supplies by the registered person in respect of the taxable period:
- d is the total value of taxable supplies by the direct supplier in respect of the taxable period, determined under section 20D:
- e is the total value of supplies by the direct supplier in respect of the taxable period, determined under section 20D.

Sections 20C to 20F were inserted, as from 1 January 2005, by section 155 Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 (2003 No 122). See clause 2 Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act Commencement Order 2004 (SR 2004/226).

The definition of item a was substituted, as from 1 January 2005, by section 151 Taxation (Venture Capital and Miscellaneous Provisions) Act 2004 (2004 No 111).

**20D Determining availability of deduction under section 20C from supplies by another person**

If a person makes a return that includes a figure for a deduction under section 20C based on the value of supplies made by the person to other persons, the availability of the deduction under section 20C for supplies made by the person to each other person must be determined on the basis of the statistics of the supplies made by the other person.

Sections 20C to 20F were inserted, as from 1 January 2005, by section 155 Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 (2003 No 122). See clause 2 Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act Commencement Order 2004 (SR 2004/226).

**20E Determining supplies charged at 0% under section 11A(1)(q) and (r) from supplies by another person**

If a person makes a return that includes a figure for the value of supplies charged with tax at a rate of 0% under section 11A(1)(q) and (r), that are made by the person to other persons, the effect of section 11A(1)(q) and (r) for supplies made by the person to each other person must be determined—

- (a) on the basis of the statistics of the supplies made by the other person; or
- (b) using a method that is approved by the Commissioner.

Sections 20C to 20F were inserted, as from 1 January 2005, by section 155 Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 (2003 No 122). See clause 2 Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act Commencement Order 2004 (SR 2004/226).

**20F Election that sections 11A(1)(q) and (r) and 20C apply**

- (1) A person may give notice to the Commissioner of an election that the person be subject to sections 11A(1)(q) and (r) and 20C.
- (2) An election under subsection (1)—
  - (a) applies for the taxable period in which the Commissioner receives the notice and for subsequent taxable periods until the election is cancelled;
  - (b) is cancelled from the end of the taxable period—
    - (i) in which the registered person ceases to have a taxable activity, if subparagraphs (ii) and (iii) do not require an earlier cancellation; or

- (ii) that is nominated in a notice of cancellation that the Commissioner receives from the registered person, if the notice of cancellation nominates a taxable period after which the cancellation is to be effective; or
- (iii) in which the Commissioner receives from the registered person a notice of cancellation, if the notice of cancellation does not nominate a taxable period after which the cancellation is to be effective.

Sections 20C to 20F were inserted, as from 1 January 2005, by section 155 Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 (2003 No 122). *See* clause 2 Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act Commencement Order 2004 (SR 2004/226).

Section 20F was amended, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35) by omitting the word “written” in all places in which it appears.

Subsection (1) was amended, as from 18 December 2006, by section 217 Taxation (Savings Investment and Miscellaneous Provisions) Act 2006 (2006 No 81) by substituting the word “person” for the words “registered person” in both places it appears.

## **21 Supplies of goods and services other than for making taxable supplies**

- (1) Subject to section 5(3), a registered person is treated as supplying goods and services in the course or furtherance of their taxable activity if—
  - (a) the person acquires or produces the goods and services for the principal purpose of making taxable supplies but applies the goods and services for a purpose other than that of making taxable supplies; or
  - (b) the person applies the goods and services for the principal purpose of making taxable supplies and also applies the goods and services for a purpose other than that of making taxable supplies; or
  - (c) the person acquires or produces goods and services before 1 October 1986 for the principal purpose of making supplies that would have been taxable supplies if they had made on or after 1 October 1986 but applies the goods and services for a purpose other than that of making taxable supplies on or after 1 October 1986; or

- (d) the person acquires or produces goods and services before 1 October 1986 and applies the goods and services both for a purpose of making supplies that would have been taxable supplies if they had been made on or after 1 October 1986 and for another purpose before 1 October 1986 but applies the goods and services for the purpose other than that of making taxable supplies on and after 1 October 1986.
- (2) Subsection (1)(c) does not apply if the goods or services are applied wholly for the purpose other than that of making taxable supplies before 1 October 1986 and continue to be applied wholly for that purpose on and after 1 October 1986.
- (3) Subsection (1) does not apply—
  - (a) to a supply of services provided by an employee on and after 1 October 1986:
  - (b) if the goods and services were acquired before 1 October 1986 and are no longer used for the principal purpose of making taxable supplies because of a legislative amendment.
- (4) Subsection (1) does not apply to goods and services to the extent that they are applied for a purpose of making exempt supplies if at the start of a taxable period the registered person has reasonable grounds for believing that the total value of all exempt supplies the person will make in the 12 months after the start of the taxable period will not be more than the lesser of:
  - (a) \$90,000; or
  - (b) 5% of the total consideration for all taxable and exempt supplies to be made in the 12-month period.
- (5) If a person is required to account for tax payable on a payments basis under section 19, for the purpose of determining the total value of all exempt supplies to be made in a 12-month period, an exempt supply is treated as having taken place during the period—
  - (a) to the extent that payment for the supply is expected to be received during the period, if the supply would be deemed to take place under any one of sections 9(1), 9(3)(a), 9(3)(aa), 9(6), 25(2)(a) or 25(4), as if the supply were taxable; or

- (b) as if the supply would be made or deemed to have been made during the period by the person had the supply been charged with tax under section 8, not being a supply to which paragraph (a) applies.

In subsection (1) the words “goods and services applied” were substituted, as from 3 December 1985, for the words “goods and services acquired or produced” by section 6(1)(a) Goods and Services Tax Amendment Act 1987 (1987 No 103). The words “for the principal ... taxable supplies” were substituted, as from 3 December 1985, for the words “in the course of a taxable activity” by section 18(1) Goods and Services Tax Amendment Act 1986 (1986 No 43). The word “subsequently” was inserted, as from 3 December 1985, by section 6(1)(b) Goods and Services Tax Amendment Act 1987 (1987 No 103).

In the first proviso to subsection (1), the words “the lesser of” were inserted, as from 3 December 1985, by section 18(2)(a) Goods and Services Tax Amendment Act 1986 (1986 No 43). In paragraph (a) the expression “\$48,000” was substituted, as from 3 December 1985, for the expression “\$48,000; and” by section 18(2)(b) of that Act.

The second proviso to subsection (1) was inserted, as from 3 December 1985, by section 18(3) Goods and Services Tax Amendment Act 1986 (1986 No 43).

Subsection (1A) was inserted, as from 3 December 1985, by section 18(4) Goods and Services Tax Amendment Act 1986 (1986 No 43).

Subsection (3) was amended, as from 1 October 1988, by section 8(1) Goods and Services Tax Amendment Act 1989 (1989 No 8) by substituting the words “Subject to subsection (3A) of this section, but notwithstanding any other provision of this section” for the words “Notwithstanding anything in this section”.

Subsection (3) provisos were repealed, as from 1 October 1988, by section 8(2) Goods and Services Tax Amendment Act 1989 (1989 No 8).

Subsection (3) was amended, as from 1 April 1995, by section YB 1 Income Tax Act 1994 (1994 No 164) by substituting the words “the FBT rules of the Income Tax Act 1994” for the words “Part 10B of the Income Tax Act 1976”.

Subsection (3A) was inserted, as from 1 October 1988, by section 8(3) Goods and Services Tax Amendment Act 1989 (1989 No 8).

Subsection (3A)(d) and (e) was repealed, as from 1 April 1995, by section YB 1 Income Tax Act 1994 (1994 No 164).

Subsection (3B) was inserted, as from 1 April 1993, by section 6 Goods and Services Tax Amendment Act 1993 (1993 No 10).

Subsection (3B) was amended, as from 1 April 1995, by section YB 1 Income Tax Act 1994 (1994 No 164) by substituting the words “section DG 1 or section FB 5 of the Income Tax Act 1994” for the words “section 106G of the Income Tax Act 1976”.

Subsection (3B) was amended, as from 1 April 1995, by section YB 1 Income Tax Act 1994 (1994 No 164) by substituting the words “section CB 12 or reimbursing amount exempt from income tax under section CB 13 of that Act” for the words “section 73 of that Act or reimbursing amount exempt from income tax under section 73A of that Act”.

Subsection (3B) was amended, as from 1 April 1995, by section 8(1) Goods and Services Tax Amendment Act 1995 (1995 No 22) by substituting the words

“or reimbursing payment that is exempt from tax under section CB 12” for the words “that is exempt from income tax under section CB 12 or reimbursing amount exempt from income tax under section CB 13”.

Subsection (3B) was amended by section 484 Taxation (Core Provisions) Act 1996 (1996 No 67) by substituting the words “deduction allowable” and “exempt income” for the words “deduction available” and “exempt from tax” respectively with application as from 1 April 1997.

Subsection (3B)(a) was amended, as from 1 April 1995, by section YB 1 Income Tax Act 1994 (1994 No 164) by substituting the words “section DG 1 or section FB 5” for the words “section 106A”.

Subsection (3B)(a) was amended by section 484 Taxation (Core Provisions) Act 1996 (1996 No 67) by inserting the words “the allowable” with application as from 1 April 1997.

Subsection (3B)(b) was amended, as from 1 April 1995, by section YB 1 Income Tax Act 1994 (1994 No 164) by substituting the words “section 37 of the Tax Administration Act 1994” for the words “section 17 of the Income Tax Act 1976”.

Subsection (4) was amended, as from 14 December 1992, by section 5 Goods and Services Tax Amendment Act 1992 (1992 No 116) by inserting the expression “or section 336TB or section 336TB”.

Subsection (4) was amended, as from 1 April 1995, by section YB 1 Income Tax Act 1994 (1994 No 164) by substituting the words “section ND 2 or section ND 3 or section ND 4 of the Income Tax Act 1994” for the words “section 336T or section 336TA or section 336TB of the Income Tax Act 1976”.

Subsection (4) was amended by section 484 Taxation (Core Provisions) Act 1996 (1996 No 67) by substituting the words “the FBT rules” for the expression “Part 10B” with application as from 1 April 1997.

In subsection (5) the words “that person or... the purpose” were substituted, as from 3 December 1985, for the words “that person for the principal purpose”; the words “in that taxable ..., that partnership” were substituted, as from 3 December 1985, for the words “in that taxable period to that registered person”; and the words “or, as the ..., that partnership” were inserted, as from 3 December 1985, by section 18(6)(a), (b), and (c) respectively of the Goods and Services Tax Amendment Act 1986 (1986 No 43).

In subsection (5) the second proviso was inserted, as from 3 December 1985, by section 18(7) Goods and Services Tax Amendment Act 1986 (1986 No 43).

Subsection (5)(a) was amended, as from 12 December 1995, by section 5 Goods and Services Tax Amendment Act (No 2) 1995 (1995 No 75) by inserting the words “or any input tax deduction claimed”.

Subsection (6) was inserted, as from 3 December 1985, by section 8(4) Goods and Services Tax Amendment Act 1989 (1989 No 8).

Section 21 was substituted, by section 100(1) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39), with application to goods and services treated as being supplied as from 10 October 2000.

**21A Methods of allocating between taxable and other supplies**

- (1) A registered person must determine the extent to which goods and services are applied for the purpose of making supplies other than taxable supplies according to:
- (a) actual use; or
  - (b) an alternative method approved by the Commissioner if the method results in allocated amounts that are fair and reasonable.
- (2) A registered person must determine the extent to which goods and services are applied for the purpose of making exempt supplies by either applying subsection (1) or using the formula:

Total value of exempt supplies for taxable period

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Total value of all supplies for taxable period.

- (3) A registered person must choose a method that ensures a fair and reasonable result.

Sections 21A to 21I were inserted, by section 100(1) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39) with application to goods and services treated as being supplied as from 10 October 2000.

Subsection (3) was inserted by section 65(1) Taxation (Beneficiary Income of Minors, Services-Related Payments and Remedial Matters) Act 2001 (2001 No 4), with application to goods and services treated as being supplied as from 10 October 2000.

**21B Methods of allocation for new or replacement goods and services**

- (1) If a person applies section 21C(1)(a) and acquires or produces goods and services in replacement of goods and services that have an existing pattern of use, the person may allocate an amount to supplies other than taxable supplies based on the use of the goods and services, before replacement, in the 12 months before the date of acquisition or production.
- (2) A person must allocate the amount on the date of acquisition or production.
- (3) If a person applies section 21C(1)(a) and either acquires or produces new goods and services or acquires goods and ser-

vices in replacement of goods and services that do not have an existing pattern of use, the person must—

- (a) on the date of acquisition or production, allocate an amount to supplies other than taxable supplies provisionally; and
- (b) 12 months after the date of acquisition or production, recalculate the provisional allocation if it differs from the actual use of the goods and services over the 12-month period.

Sections 21A to 21I were inserted, by section 100(1) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39) with application to goods and services treated as being supplied as from 10 October 2000.

Section 21B heading was substituted by section 66(2) Taxation (Beneficiary Income of Minors, Services-Related Payments and Remedial Matters) Act 2001 (2001 No 4), with application as from 10 October 2000.

Subsection (3) was amended by section 66(1)(a) Taxation (Beneficiary Income of Minors, Services-Related Payments and Remedial Matters) Act 2001 (2001 No 4) by inserting the words “either acquires or produces new goods and services or”, with application to goods and services treated as being supplied as from 10 October 2000.

Subsection (3)(a) was amended by section 66(1)(b) Taxation (Beneficiary Income of Minors, Services-Related Payments and Remedial Matters) Act 2001 (2001 No 4) by substituting the words “acquisition or production” for the word “acquisition”, with application to goods and services treated as being supplied as from 10 October 2000.

Subsection (3)(b) was amended by section 66(1)(c) Taxation (Beneficiary Income of Minors, Services-Related Payments and Remedial Matters) Act 2001 (2001 No 4) by substituting the words “acquisition or production” for the words “purchase or acquisition”, with application to goods and services treated as being supplied as from 10 October 2000.

### **21C Attribution of output tax**

- (1) A registered person to whom section 21(1) applies must attribute output tax to one of the following times:
  - (a) in the first taxable period in which goods and services are applied for a purpose other than that of making taxable supplies; or
  - (b) in each taxable period in which goods and services are applied for a purpose other than that of making taxable supplies; or
  - (c) in each year in which goods and services are applied for a purpose other than that of making taxable supplies.

- (2) A registered person who applies subsection (1)(a) must make output tax attributions to reflect further changes in use of 20% or more.
- (3) If subsection (1)(a) or (1)(c) applies, a registered person must reduce the output tax attributable by the amount of the output tax attributed to earlier taxable periods for the supply of the goods and services.
- (4) A person may change the time the person attributes output tax only with the Commissioner's approval.

Sections 21A to 21I were inserted, by section 100(1) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39) with application to goods and services treated as being supplied as from 10 October 2000.

#### **21D Attribution of output tax in contemplation of sale of goods and services**

Despite section 21(1), a registered person is not treated as supplying goods and services in the course or furtherance of their taxable activity if—

- (a) the goods or services are sold after the person has attributed output tax at the time specified in section 21C(1)(a); and
- (b) the Commissioner considers that the person applied the goods or services for a purpose other than that of making taxable supplies and attributed output tax under section 21C(1)(a) in contemplation of the sale of the goods or services.

Sections 21A to 21I were inserted, by section 100(1) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39) with application to goods and services treated as being supplied as from 10 October 2000.

#### **21E Application of section 21F**

- (1) Section 21F applies if—
  - (a) a person acquires goods and services on or after 1 October 1986 for the principal purpose other than that of making taxable supplies; and
  - (b) the goods and services are applied in a taxable period for a purpose of making taxable supplies either by the person or, if the person is a member of a partnership, by the partnership; and
  - (c) either subsection (2) or subsection (3) applies.

- (2) This subsection applies if—
- (a) tax has been charged under section 8(1) on the supply of the goods and services made to the person; or
  - (b) tax has been levied under section 12(1) of this Act on the goods that have been entered for home consumption under the Customs and Excise Act 1996 by the person.
- (3) This subsection applies if—
- (a) the goods are secondhand goods that are supplied to the person by way of sale and the goods—
    - (i) have always been situated in New Zealand; or
    - (ii) have had tax levied on them under section 12(1);and
  - (b) the supply is not a taxable supply; and
  - (c) the person has not supplied the goods to another registered person who has entered them for home consumption under the Customs and Excise Act 1996.
- (4) For the purpose of subsection (1)(a), goods and services are treated as if they were acquired for the principal purpose other than that of making taxable supplies to the extent that—
- (a) section 21 or 21I have treated the goods and services as being supplied; or
  - (b) section 5(3) has deemed the goods and services as being supplied by a person who ceases to be a registered person and the goods or services are subsequently applied by the person, or by a partnership of which the person is a partner, for a purpose of making taxable supplies.

Sections 21A to 21I were inserted, by section 100(1) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39) with application to goods and services treated as being supplied as from 10 October 2000. *See* section 100(3) Taxation (GST and Miscellaneous Provisions) Act 2000 for the application provisions.

Subsection (2)(b) was amended by section 67(1) Taxation (Beneficiary Income of Minors, Services-Related Payments and Remedial Matters) Act 2001 (2001 No 4) by inserting the words “of this Act”. *See* section 100(3) Taxation (GST and Miscellaneous Provisions) Act 2000 for the application provisions.

Subsection (3)(a)(ii) was amended by section 67(2) Taxation (Beneficiary Income of Minors, Services-Related Payments and Remedial Matters) Act 2001 (2001 No 4) by omitting the words “of the Customs and Excise Act 1996”. *See* section 100(3) Taxation (GST and Miscellaneous Provisions) Act 2000 for the application provisions.

Subsection (4) was amended, as from 10 October 2000, by section 152(1) Taxation (Venture Capital and Miscellaneous Provisions) Act 2004 (2004 No 111) by substituting the words “to the extent that—” for the word “if—”.

Subsection (4)(a) was amended, as from 10 October 2000, by section 152(2) Taxation (Venture Capital and Miscellaneous Provisions) Act 2004 (2004 No 111) by substituting the words “section 21 or 21I” for the words “sections 21 and 21I”.

**21F Deductions from output tax for goods and services applied for making taxable supplies**

- (1) For the purpose of this Act, the goods and services referred to in section 21E are treated as being supplied in the taxable period to the person or partnership, and the Commissioner must, to the extent that the goods and services are applied, allow the person or partnership to make a deduction under section 20(3) for the tax fraction of the lesser of—
  - (a) the cost of the goods and services, including any tax charged or input tax deduction claimed for the goods and services; and
  - (b) the open market value of the supply of the goods and services.
- (2) Subsection (1) does not apply to a supply of services provided by an employee.
- (3)

Sections 21A to 21I were inserted, by section 100(1) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39) with application to goods and services treated as being supplied as from 10 October 2000. *See* section 100(3) Taxation (GST and Miscellaneous Provisions) Act 2000 for the application provisions in relation to subsection (1) of this section.

Subsection (3) was repealed by section 102(1) Taxation (Relief, Refunds and Miscellaneous Provisions) Act 2002 (2002 No 32) with application as from 10 October 2002.

**21G Timing of deduction under section 21F**

- (1) A person to whom section 21F applies may make the deduction at either of the following times:
  - (a) in each taxable period in which goods and services are applied for a purpose of making taxable supplies; or
  - (b) in each year in which goods and services are applied for a purpose of making taxable supplies.

- (1A) Despite subsection (1) and subject to subsection (1B), if section 21F(1) applies to goods that are capital assets with a cost of less than \$18,000, the person or the partnership referred to in section 21F(1) may make a single deduction in the taxable period during which the goods are applied for a purpose of making taxable supplies.
- (1B) Subsection (1A) does not apply to a registered person if the goods referred to in section 21E are applied for a different purpose as a consequence of a change in this Act.
- (2) If a person makes a deduction at the time allowed by subsection (1)(b), the person must reduce the amount of the deduction allowed under section 21F by the amount of deductions made in earlier taxable periods in relation to the supply.
- (3) A person may change the time at which the person makes a deduction only with the Commissioner's approval.

Sections 21A to 21I were inserted, by section 100(1) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39) with application to goods and services treated as being supplied as from 10 October 2000.

Subsection (1A) was inserted by section 103(1) Taxation (Relief, Refunds and Miscellaneous Provisions) Act 2002 (2002 No 32) with application as from 10 October 2002.

Subsection (1A) was amended, as from 1 January 2005, by section 156(1) Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 (2003 No 122) by inserting the words "and subject to subsection (1B)" after the words "Despite subsection (1)". See clause 2 Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act Commencement Order 2004 (SR 2004/226).

Subsection (1B) was inserted, as from 1 January 2005, by section 156(2) Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 (2003 No 122). See clause 2 Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act Commencement Order 2004 (SR 2004/226).

## **21H Application to make single deduction under section 21F**

- (1) Despite section 21G(1), a person to whom section 21F applies may apply to the Commissioner to make a single deduction in the taxable period in which goods and services are wholly applied for a purpose of making taxable supplies.
- (2) Subsection (1) does not apply to goods and services that—
- (a) cost less than \$18,000:
  - (b) are applied for a different purpose as a consequence of a change in this Act.

- (3) When determining whether to allow a person to make a single deduction, the Commissioner must take the following factors into account:
- (a) the nature of the goods or services;
  - (b) whether it is practical to require a deduction at either of the times specified in section 21G(1);
  - (c) whether the person has previously made an attribution under section 21C(1)(a);
  - (d) whether the person has previously made a single adjustment under section 21(1), as it was before the enactment of the Taxation (GST and Miscellaneous Provisions) Act 2000;
  - (e) whether the person has previously made a single deduction under either—
    - (i) this section; or
    - (ii) section 21(5), as it was before the enactment of the Taxation (GST and Miscellaneous Provisions) Act 2000.
- (4) If the Commissioner allows the person to make a single deduction and the goods and services are subsequently applied for a purpose other than that of making taxable supplies, the person must apply section 21C(1)(a) in the taxable period in which the change occurs.

Sections 21A to 21I were inserted, by section 100(1) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39) with application to goods and services treated as being supplied as from 10 October 2000.

Subsection (2) was substituted, as from 1 January 2005, by section 157(1) Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 (2003 No 122). See clause 2 Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act Commencement Order 2004 (SR 2004/226).

Subsection (3)(b) was amended by section 104(1) Taxation (Relief, Refunds and Miscellaneous Provisions) Act 2002 (2002 No 32) by substituting the expression “21G(1)” for the expression “21F(1)” with application as from 10 October 2000.

Subsection (3)(d) was amended by section 157(2) Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 (2003 No 122) by substituting the expression “section 21(1)” for the expression “section 21” with application to goods and services treated as being supplied as from 10 October 2000.

Subsection (3)(e)(i) was amended by section 104(2) Taxation (Relief, Refunds and Miscellaneous Provisions) Act 2002 (2002 No 32) by substituting the words “this section” for the expression “section 21G” with application as from 10 October 2000.

**211 Fringe benefits and entertainment expenses**

- (1) If a registered person has or is deemed to have provided or granted a fringe benefit to another person under the FBT rules of the Income Tax Act 2007, the providing or granting of the fringe benefit is treated as being a supply of goods and services made by the registered person in the course or furtherance of their taxable activity.
- (2) Subsection (1) does not apply to the extent that—
  - (a) the other person paid an amount for the receipt or enjoyment of the fringe benefit; or
  - (b) the fringe benefit arose by virtue of an exempt supply under section 14; or
  - (c) the fringe benefit arose by virtue of a supply that is charged with tax at the rate of 0% under section 11, 11A, 11AB or 11B; or
  - (d) the fringe benefit is, or is deemed to be, provided or granted by a registered person in the course of making exempt supplies.
- (3) Despite sections 9 and 21C, the supply of goods and services is treated as taking place at the time the fringe benefit is or is deemed to be provided or granted.
- (4) If sections DD 1 to DD 3 of the Income Tax Act 2007 apply to limit the deduction under that Act for expenditure or loss (including depreciation loss) that a registered person is allowed in the course of or furtherance of a taxable activity with respect to entertainment, as described by section DD 2 of that Act,—
  - (a) the registered person is treated as having supplied entertainment for a consideration in money equal to the amount of the deduction prevented by sections DD 1 and DD 2 of that Act; and
  - (b) the time of the supply is treated as being the earlier of—
    - (i) the date on which the person furnishes a return of income under section 37 of the Tax Administration Act 1994 for the tax year for which the deduction is allowed; and
    - (ii) the date by which the person must furnish a return of income under section 37 of the Tax Administration Act 1994 for the tax year for which the deduction is allowed.

- (5) For the purpose of subsection (4), expenditure does not include an entertainment allowance to an employee or a reimbursing payment that is exempt income under section CW 17 or CW 18 of the Income Tax Act 2007.

Sections 21A to 21I were inserted, by section 100(1) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39) with application to goods and services treated as being supplied as from 10 October 2000.

Section 21I(1): amended, on 1 April 2008, by section ZA 2(1) of the Income Tax Act 2007 (2007 No 97).

Subsection (1) was amended, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35) by substituting the words “Income Tax Act 2004” for the words “Income Tax Act 1994”.

Subsection (2)(c) was amended, as from 1 July 2003, by section 158 Taxation (Maori Organisations, Taxpayer Compliance and Miscellaneous Provisions) Act 2003 (2003 No 5) by inserting the expression “11AB” after the expression “11A,”.

Subsection (3) was substituted by section 68(1) Taxation (Beneficiary Income of Minors, Services-Related Payments and Remedial Matters) Act 2001 (2001 No 4) with application to fringe benefits provided or granted: (a) as from 1 January 2002, for an employer who pays fringe benefit tax on a quarterly basis; and (b) as from 1 April 2001, for an employer who pays fringe benefit tax on an annual basis; and (c) as from the 2000-01 income year, for an employer who pays fringe benefit tax on an income year basis.

Subsection (4) was substituted, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

Section 21I(4): amended, on 1 April 2008, by section ZA 2(1) of the Income Tax Act 2007 (2007 No 97).

Section 21I(5): amended, on 1 April 2008, by section ZA 2(1) of the Income Tax Act 2007 (2007 No 97).

Subsection (5) was amended, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35) by substituting the words “section CW 13 or CW 14 of the Income Tax Act 2004” for the words “section CB 12 of the Income Tax Act 1994”.

## **22 Goods and services acquired before incorporation**

Any company, being a registered person, shall, where any amount of tax has been charged or levied pursuant to section 8(1) or section 12(1) of this Act in relation to the acquisition of goods and services for or on behalf of that company or in connection with the incorporation of that company, and where those goods and services were acquired prior to incorporation by a person who—

- (a) Became a member, officer, or employee of the company and was reimbursed by the company for the whole

amount of the consideration paid for the goods and services; and

- (b) Acquired those goods and services for the purpose of a taxable activity to be carried on by the company and has not used those goods and services for any purpose other than such taxable activity,—

be deemed to be the recipient of the goods and services and to have paid any tax charged or levied pursuant to section 8(1) or section 12(1) of this Act as if the supply or the payment of the tax had been made during the taxable period in which the reimbursement referred to in paragraph (a) of this section is made:

Provided that this section shall not apply in relation to any goods and services where—

- (c) The supply of those goods and services by that person to the company is a taxable supply, or is a supply of secondhand goods not being a taxable supply; or
- (d) Those goods and services were so acquired more than 6 months prior to the date of incorporation of the company; or
- (e) The company does not hold sufficient records to establish the particulars relating to the deduction to be made.

Section 22 was amended, as from 1 October 1996, by section 289(1) Customs and Excise Act 1996 (1996 No 27) by omitting the words “or section 13” in two places.

### **23 Payment of tax**

- (1) Every registered person, for each taxable period, shall, not later than the last day allowed under this Act for furnishing a return for that taxable period, pay to the Commissioner the tax payable for that period as calculated pursuant to section 20 of this Act.
- (2)
- (3)
- (4) A return purporting to be made by or on behalf of any person shall for all purposes be deemed to have been made by that person or by that person’s authority, as the case may be, unless the contrary is proved.

Subsection (2) was repealed by section 101(1) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39), with application as from 1 October 2000.

Subsection (3) was amended by section 4 Goods and Services Tax Amendment Act 1996 (1996 No 59) by substituting the expression “Part 4 of this Act and Part 8A of the Tax Administration Act 1994” for the expression “Part 4 and Part 5 of this Act” with application to tax obligations, liabilities, and rights that are to be performed under or arise in relation to supplies made in respect of taxable periods commencing as from 1 April 1997. *See* section 1(3) of that Act as to the application of this amendment in relation to other provisions of this Act.

Subsection (3) was repealed, as from 21 December 2004, by section 153(1) Taxation (Venture Capital and Miscellaneous Provisions) Act 2004 (2004 No 111) with application for taxable periods beginning on or after 1 April 2005.

### **23A Payment of tax relating to fringe benefits**

- (1) A registered person who provides or grants a fringe benefit to another person under the Income Tax Act 2007 must pay the tax on the taxable value of the fringe benefit in the person’s FBT return by the time specified in sections RA 15, and RD 59 to RD 62 of the Income Tax Act 2007 and sections 46B to 46D of the Tax Administration Act 1994 as is appropriate.
- (2) Payment of the tax on the taxable value of the fringe benefit is treated as a payment of FBT for the purposes of filing the fringe benefit return and Parts 4A, 6, 7, 9, 10 and 11 of the Tax Administration Act 1994.

Section 23A was inserted by section 69(1) Taxation (Beneficiary Income of Minors, Services-Related Payments and Remedial Matters) Act 2001 (2001 No 4) with application to fringe benefit tax returns due: (a) as from 31 May 2002, for an employer who pays fringe benefit tax on a quarterly or an annual basis; and (b) by the terminal tax date for the 2000-01 income year, for an employer who pays fringe benefit tax on an income year basis, and to subsequent fringe benefit tax returns required to be filed on an income year basis.

Section 23A was amended, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35) by substituting the words “Income Tax Act 2004” for the words “Income Tax Act 1994” in all places in which they appear.

Section 23A(1): amended, on 1 April 2008, by section ZA 2(1) of the Income Tax Act 2007 (2007 No 97).

Subsection (2) was inserted by section 105(1) Taxation (Relief, Refunds and Miscellaneous Provisions) Act 2002 (2002 No 32). *See* section 105(2) of that Act as to its application.

Section 23A(2): amended, on 1 April 2008, by section ZA 2(1) of the Income Tax Act 2007 (2007 No 97).

**24 Tax invoices**

- (1) Except as otherwise provided in this section, a supplier, being a registered person, making a taxable supply to a recipient, being a registered person, shall, at the request of the recipient, provide that recipient, within 28 days of the making of that request, with a tax invoice containing such particulars as are specified in this section:

Provided that—

- (a) It shall not be lawful to issue more than one tax invoice for each taxable supply:
  - (b) If a registered person claims to have lost the original tax invoice, the supplier or the recipient, as the case may be, may provide a copy clearly marked **copy only**.
- (2) Where a recipient, being a registered person, creates a document containing the particulars specified in this section and purporting to be a tax invoice in respect of a taxable supply of goods and services made to the recipient by a supplier, being a registered person, that document shall be deemed to be a tax invoice provided by the supplier under subsection (1) of this section where—
- (a) The Commissioner has granted prior approval for the issue of such documents by a recipient or class or classes of recipients in relation to the taxable supplies or class or classes of taxable supplies to which the documents relate; and
  - (b) The supplier and the recipient agree that the supplier shall not issue a tax invoice in respect of any taxable supply to which this subsection applies; and
  - (c) The document is provided to the supplier and a copy is retained by the recipient; and
  - (d) The words **buyer created tax invoice-IRD approved** are contained in a prominent place on that document:

Provided that where a tax invoice is issued pursuant to this subsection any tax invoice issued by the supplier in respect of that taxable supply shall be deemed not to be a tax invoice for the purposes of this Act.

- (2A) Subject to subsection (2B) of this section, for the purposes of subsection (1) of this section, where goods are deemed to

be supplied by a person pursuant to section 5(2) of this Act, the person selling those goods, whether or not that person is a registered person, in making that taxable supply to a recipient, shall be deemed to be the supplier of those goods.

- (2B) In any case where subsection (2A) of this section applies and the person who is deemed to be the supplier is not a registered person, the reference to the registration number of the supplier in paragraph (b) of subsections (3) and (4) of this section shall be read as if that reference were to the tax file number of the supplier.
- (3) Except as the Commissioner may otherwise allow, and subject to this section, a tax invoice shall contain the following particulars:
- (a) The words **tax invoice** in a prominent place:
  - (b) The name, and registration number of the supplier:
  - (c) The name and address of the recipient:
  - (d) The date upon which the tax invoice is issued:
  - (e) A description of the goods and services supplied:
  - (f) The quantity or volume of the goods and services supplied:
  - (g) Either—
    - (i) The total amount of the tax charged, the consideration, excluding tax, and the consideration, inclusive of tax for the supply; or
    - (ii) Where the amount of tax charged is the tax fraction of the consideration, the consideration for the supply and a statement that it includes a charge in respect of the tax.
- (4) Notwithstanding anything in subsection (3) of this section, where the consideration in money for a supply does not exceed \$1,000 (or such greater amount as the Governor-General may, from time to time, by Order in Council declare), a tax invoice shall contain the particulars specified in that subsection or the following particulars:
- (a) The words **tax invoice** in a prominent place:
  - (b) The name and registration number of the supplier:
  - (c) The date upon which the tax invoice is issued:
  - (d) A description of the goods and services supplied:

- (e) The consideration for the supply and a statement that it includes a charge in respect of tax:

Provided that this subsection shall not apply to a supply that is charged with tax pursuant to section 11, 11A, 11AB or 11B.

- (5) Notwithstanding any other provision of this Act, a supplier shall not be required to provide a tax invoice if the consideration in money for a supply does not exceed \$50 (or such greater amount as the Governor-General may, from time to time, by Order in Council declare).
- (6) Where the Commissioner is satisfied that there are or will be sufficient records available to establish the particulars of any supply or class of supplies, and that it would be impractical to require that a tax invoice be issued pursuant to this section, the Commissioner may determine that, subject to any conditions that the Commissioner may consider necessary,—
- (a) Any one or more of the particulars specified in subsection (3) or subsection (4) of this section shall not be contained on a tax invoice; or
- (b) A tax invoice is not required to be issued.
- (6A) Any tax invoice issued pursuant to subsection (6)(a) of this section shall contain the words **modified tax invoice-IRD approved** in a prominent place.
- (7) Notwithstanding anything in this section, where a supplier makes a supply, not being a taxable supply, of secondhand goods to a recipient, being a registered person, the recipient shall maintain sufficient records to enable the following particulars to be ascertained:
- (a) The name and address of the supplier:
- (b) The date upon which the secondhand goods were acquired:
- (c) A description of the goods supplied:
- (d) The quantity or volume of the goods supplied:
- (e) The consideration for the supply:

Provided that this subsection shall not require that recipient to keep such records where the consideration in money for that supply does not exceed \$50 (or such greater amount as the Governor-General may, from time to time, by Order in Council declare).

- (8) Where any amount of tax charged is required to be shown on any tax invoice, and that amount consists of any number of dollars and cents together with any fraction or part of a cent, that fraction or part of that cent,—
- (a) If less than or equal to half of that cent, may be disregarded for the purposes of this section:
  - (b) If in excess of half of that cent, shall be deemed for the purposes of this section to be an amount equal to one cent.
- (9) Where approval has been granted by the Commissioner to issue tax invoices pursuant to subsection (2) of this section, that approval may be withdrawn at any time where the Commissioner is satisfied that the conditions of that approval have not been complied with.
- (10) Where the Commissioner has determined that a tax invoice may be issued pursuant to subsection (6)(a) of this section, or is not required to be issued pursuant to subsection (6)(b) of this section, that determination may be revoked where the Commissioner is satisfied that any conditions specified have not been complied with.

Subsection (2) was amended, as from 19 December 1989, in 5 places, by section 11(1) Goods and Services Tax Amendment Act (No 2) 1989 (1989 No 152) by inserting the word “taxable”

Subsection (2)(c) and (d) were substituted, as from 19 December 1989, by section 11(2) Goods and Services Tax Amendment Act (No 2) 1989 (1989 No 152).

Subsections (2A) and (2B) were inserted, as from 19 December 1989, by section 11(3) Goods and Services Tax Amendment Act (No 2) 1989 (1989 No 152).

Subsection (2B) was substituted, as from 23 September 1997, by section 112 Taxation (Remedial Provisions) Act 1997 (1997 No 74).

Subsection (3)(b) was amended, as from 3 December 1985, by section 19(1)(a) Goods and Services Tax Amendment Act 1986 (1986 No 43) by omitting the word “address”

Subsection (3)(d) was amended, as from 3 December 1985, by section 19(1)(b) Goods and Services Tax Amendment Act 1986 (1986 No 43) by omitting the words “An individual serialised number and”

Subsection (4) was amended, as from 8 August 1990, by section 7(1)(a) Goods and Services Tax Amendment Act (No 2) 1990 (1990 No 93) by substituting the expression “\$200” for the expression “\$100”

Subsection (4) was amended by section 102(1) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39) by substituting the expression “\$1,000” for the expression “\$200” with application as from 1 October 2000.

Subsection (4) proviso was amended by section 102(2) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39) by substituting the expression “section 11, 11A or 11B” for the expression “section 11 of this Act” with application as from 10 October 2000.

Subsection (4) proviso was amended, as from 1 July 2003, by section 159 Taxation (Maori Organisations, Taxpayer Compliance and Miscellaneous Provisions) Act 2003 (2003 No 5) by inserting the expression “, 11AB” after the expression “11A”.

Subsection (5) was amended, as from 8 August 1990, by section 7(1)(b) Goods and Services Tax Amendment Act (No 2) 1990 (1990 No 93) by substituting the expression “\$50” for the expression “\$20”

Subsection (6) was amended, as from 3 December 1985, by section 19(2) Goods and Services Tax Amendment Act 1986 (1986 No 43) by inserting the words “, subject to any conditions that the Commissioner may consider necessary,”

Subsection (6A) was inserted, as from 19 December 1989, by section 11(4) Goods and Services Tax Amendment Act (No 2) 1989 (1989 No 152).

Subsection (7) was amended, as from 3 December 1985, by section 19(3) Goods and Services Tax Amendment Act 1986 (1986 No 43) by substituting the words “supplier makes a supply, not being a taxable supply,” for the words “supplier, not being a registered person, makes a supply”

Subsection (7) proviso was inserted, as from 3 December 1985, by section 19(4) Goods and Services Tax Amendment Act 1986 (1986 No 43), and was amended, as from 28 September 1993, by section 3(1) Goods and Services Tax Amendment Act (No 2) 1993 (1993 No 31) by substituting the expression “\$50” for the expression “\$20”. *See* section 3(2) Goods and Services Tax Amendment Act (No 2) 1993 as to that section applying with respect to supplies of second-hand goods made on or after 28 September 1993.

Subsection (8) was inserted, as from 3 December 1985, by section 19(5) Goods and Services Tax Amendment Act 1986 (1986 No 43).

Subsections (9) and (10) were inserted, as from 19 December 1989, by section 11(5) Goods and Services Tax Amendment Act (No 2) 1989 (1989 No 152).

## 24BA Shared tax invoices

- (1) A shared invoice is a tax invoice, if the invoice contains the following particulars:
- (a) the words “tax invoice” in a prominent place;
  - (b) the name and registration number of the principal supplier;
  - (c) the name and address of the recipient;
  - (d) the date upon which the tax invoice is issued;
  - (e) a description of the goods and services supplied;
  - (f) the consideration for the supply, inclusive of tax charged, and—
    - (i) the tax charged, and the consideration for the supply, excluding tax charged; or

- (ii) where the amount of tax charged is the tax fraction of the consideration, a statement that the consideration includes a charge in respect of the tax.
- (2) A tax invoice under this section is treated as provided by each supplier.
  - (3) Where a tax invoice to which this section applies has been issued in respect of a supply, the principal supplier must maintain sufficient records to enable the name, address, and registration number, if any, of the supply's supplier to be ascertained.
  - (4) For the purposes of this section,—
    - principal supplier** means, for a shared invoice,—
      - (a) the supplier responsible for issuing the invoice, unless paragraph (b) applies:
      - (b) the representative member of a group of companies for the purposes of section 55
    - shared invoice** means a single invoice for goods and services (other than goods deemed to be supplied pursuant to section 5(2)) supplied by 2 or more suppliers, if the suppliers use a single invoice because they—
      - (a) have statutory obligations which make it practical to use a single invoice:
      - (b) are part of the same group of companies for the purposes of section 55.

Section 24BA: inserted, on 19 December 2007, by section 277 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

#### **24B Records to be kept by recipient of imported services**

A registered person who receives a supply of services that is treated by section 8(4B) as being made in New Zealand must maintain sufficient records of the supply to enable the following particulars to be ascertained:

- (a) the name and address of the supplier:
- (b) the date on which, or the period during which, the supply was received:
- (c) a description of the services supplied:
- (d) the consideration for the supply:
- (e) the time by which payment of the consideration for the supply is required:

- (f) the amount of the consideration for the supply that the registered person has treated as not affecting the value of the supply in reliance on section 10(15C)(a):
- (g) the amount of the consideration for the supply that the registered person has treated as not affecting the value of the supply in reliance on section 10(15C)(b).

Section 24B was inserted, as from 1 January 2005, by section 158 Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 (2003 No 122). See clause 2 Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act Commencement Order 2004 (SR 2004/226).

## **25 Credit and debit notes**

- (1) This section shall apply where, in relation to the supply of goods and services by any registered person,—
  - (a) That supply of goods and services has been cancelled;  
or
  - (aa) The nature of that supply of goods and services has been fundamentally varied or altered; or
  - (b) The previously agreed consideration for that supply of goods and services has been altered, whether due to the offer of a discount or otherwise; or
  - (c) The goods and services or part of those goods and services supplied have been returned to the supplier,—  
and the supplier has—
    - (d) Provided a tax invoice in relation to that supply and as a result of any one or more of the above events, the amount shown thereon as tax charged on that supply is incorrect; or
    - (e) Furnished a return in relation to the taxable period for which output tax on that supply is attributable and, as a result of any one or more of the above events, has accounted for an incorrect amount of output tax on that supply.
- (2) Where a supplier has accounted for an incorrect amount of output tax as specified in subsection (1)(e) of this section, that supplier shall make an adjustment in calculating the tax payable by that supplier in the return for the taxable period during which it has become apparent that the output tax is incorrect, and if—

- (a) The output tax properly charged in relation to that supply exceeds the output tax actually accounted for by the supplier, the amount of that excess shall be deemed to be tax charged on a taxable supply made by that supplier and be attributable to the taxable period in which the adjustment is to be made, and not attributable to any prior taxable period:
  - (b) The output tax actually accounted for exceeds the output tax properly charged in relation to that supply, that supplier shall make a deduction under section 20(3) of this Act of the amount of that excess.
- (3) Subject to this section, where a tax invoice has been provided as specified in subsection (1)(d) of this section, and—
- (a) The amount shown as tax charged on that tax invoice exceeds the actual tax charged in respect of that supply, the supplier shall provide the recipient with a credit note, containing the following particulars:
    - (i) The words **credit note** in a prominent place:
    - (ii) The name and registration number of the registered person:
    - (iii) The name and address of the recipient:
    - (iv) The date on which the credit note was issued:
    - (v) Either—
      - (A) The amount of consideration for that supply contained in the tax invoice referred to above, the correct amount of consideration for the supply, the difference between those 2 amounts, and the tax charged in respect of that supply to the extent that it relates to the amount of that difference; or
      - (B) Where the tax charged in respect of the supply is the tax fraction of the consideration, the difference referred to above in this subparagraph and a statement that that difference includes a charge in respect of the tax:
  - (vi)

- (vii) A brief explanation of the circumstances giving rise to the issuing of the credit note:
- (b) The actual tax charged in respect of that supply exceeds the tax charged shown on the tax invoice, the supplier shall provide the recipient with a debit note, containing the following particulars:
  - (i) The words “debit note” in a prominent place:
  - (ii) The name and registration number of the registered person:
  - (iii) The name and address of the recipient:
  - (iv) The date on which the debit note was issued:
  - (v) Either—
    - (A) The amount of consideration for that supply contained in the tax invoice referred to above, the correct amount of consideration for the supply, the difference between those 2 amounts, and the tax charged in respect of that supply to the extent that it relates to the amount of that difference; or
    - (B) Where the tax charged in respect of the supply is the tax fraction of the consideration, the difference referred to above in this subparagraph and a statement that that difference includes a charge in respect of the tax:
  - (vi)
  - (vii) A brief explanation of the circumstances giving rise to the issuing of the debit note:

Provided that—

- (c) It shall not be lawful to issue more than one credit note or debit note for the amount of the excess:
- (d) If any registered person claims to have lost the original credit note or debit note, the supplier or recipient, as the case may be, may provide a copy clearly marked **copy only**:
- (e) A supplier shall not be required to provide a recipient with a credit note pursuant to paragraph (a) of this subsection in any case where and to

the extent that the amount of the excess referred to in that paragraph arises as a result of the recipient taking up a prompt payment discount offered by the supplier and that the terms of the prompt payment discount offer are clearly stated on the face of the tax invoice.

(3A) Where a recipient, being a registered person, creates a document containing the particulars specified in this section and purporting to be a credit note or a debit note in respect of a supply of goods and services made to the recipient by a supplier, being a registered person, that document shall be deemed to be a credit note or, as the case may be, a debit note provided by the supplier under subsection (3) of this section where—

- (a) The Commissioner has granted prior approval for the issue of such documents by a recipient or class or classes of recipients in relation to the supplies or class or classes of supplies to which the documents relate; and
- (b) The supplier and the recipient agree that the supplier shall not issue a credit note or, as the case may be, a debit note in respect of any supply to which this subsection applies; and
- (c) A copy of any such document is provided to the supplier and another copy is retained by the recipient:

Provided that—

- (d) Where a credit note is issued pursuant to this subsection, any credit note issued by the supplier in respect of that supply shall be deemed not to be a credit note for the purposes of this Act:
  - (e) Where a debit note is issued pursuant to this subsection, any debit note issued by the supplier in respect of that supply shall be deemed not to be a debit note for the purposes of this Act.
- (3B) Where the Commissioner is satisfied that there are or will be sufficient records available to establish the particulars of any supply or class of supplies, and that it would be impractical to require that a credit note or a debit note be issued pursuant to this section, the Commissioner may determine that, subject

to any conditions that the Commissioner may consider necessary,—

- (a) Any one or more of the particulars specified in paragraph (a) or, as the case may be, paragraph (b) of subsection (3) of this section shall not be contained in a credit note or, as the case may be, a debit note; or
  - (b) A credit note or, as the case may be, a debit note is not required to be issued.
- (3C) Notwithstanding anything in subsection (3) of this section where, in relation to any taxable supplies, or a class or classes of taxable supplies, made by a supplier to a recipient, or a class or classes of recipients,—
- (a) The supplier has provided, in terms of section 24 of this Act, one or more tax invoices to a recipient in respect of those taxable supplies; and
  - (b) The Commissioner is satisfied that there are or will be sufficient records available to establish the particulars of those taxable supplies to a recipient,—
- the Commissioner may determine in respect of any recipient, or class or classes of recipients, that, subject to any conditions that the Commissioner may consider necessary, the supplier may issue one credit note or debit note to each recipient with respect to those tax invoices.
- (4) Where any recipient, being a registered person, has been issued with a credit note pursuant to subsection (3)(a) of this section, or has written or other notice or otherwise knows that any tax invoice which that registered person holds is incorrect as a result of any one or more of the events specified in any of paragraphs (a), (aa), (b), and (c) of subsection (1) of this section, and has made a deduction of any amount of input tax in any taxable period in respect of that supply of goods and services to which the credit note or that notice or other knowledge, as the case may be, relates, the amount of the excess referred to in subsection (3)(a) of this section shall be deemed to be tax charged in relation to a taxable supply made by the recipient attributable to the taxable period in which the credit note was issued, or that notice or, as the case may be, other knowledge was received, to the extent that the input tax deducted exceeds the output tax properly charged.

- (5) Where any recipient, being a registered person, has been issued with a debit note pursuant to subsection (3)(b) of this section, and has made a deduction of any amount of input tax in any taxable period in respect of that supply of goods and services to which that debit note relates, the recipient shall make a deduction under section 20(3) of this Act of the amount of the excess referred to in subsection (3)(b) of this section in the taxable period in which the debit note is issued, to the extent that the output tax properly charged exceeds the input tax deducted.
- (6) Where any amount of tax charged is required to be shown on any credit note or debit note, and that amount consists of any number of dollars and cents together with any fraction or part of a cent, that fraction or part of that cent,—
- (a) If less than or equal to half of that cent, may be disregarded for the purposes of this section:
- (b) If in excess of half of that cent, shall be deemed for the purposes of this section to be an amount equal to one cent.

Subsection (1)(aa) was inserted, as from 3 December 1985, by section 20(1) Goods and Services Tax Amendment Act 1986 (1986 No 43).

Subsection (2)(a) was amended, as from 21 June 2005, by section 157 Taxation (Base Maintenance and Miscellaneous Provisions) Act 2005 (2005 No 79) by substituting the words “tax charged on a taxable supply made by that supplier and be” for the words “tax charged by that supplier in relation to a taxable supply”.

Subsection (2)(b) was amended, as from 3 December 1985, by section 20(2) Goods and Services Tax Amendment Act 1986 (1986 No 43) by inserting the words “of input tax”.

Subsection (2)(b) was amended, as from 25 November 2003, by section 159(1) Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 (2003 No 122) by substituting the word “deduction” for the words “deduction of input tax”.

Subsection (3)(a)(ii) was amended, as from 24 March 1988, by section 12 Goods and Services Tax Amendment Act 1988 (1988 No 7) by omitting the word “, address,”.

Subsection (3)(a)(v) was substituted, as from 3 December 1985, for the original subparagraphs (v) and (vi) by section 20(3) Goods and Services Tax Amendment Act 1986 (1986 No 43).

Subsection 3(a)(vi) was repealed, as from 3 December 1985, by section 20(3) Goods and Services Tax Amendment Act 1986 (1986 No 43).

Subsection (3)(b)(ii) was amended, as from 24 March 1988, by section 12 Goods and Services Tax Amendment Act 1988 (1988 No 7) by omitting the word “, address,”

Subsection (3)(b)(v) was substituted, as from 3 December 1985, for the original subparas (v) and (vi) by section 20(4) Goods and Services Tax Amendment Act 1986 (1986 No 43).

Subsection 3(b)(vi) was repealed, as from 3 December 1985, by section 20(4) Goods and Services Tax Amendment Act 1986 (1986 No 43).

Subsection (3)(c) and (d) were amended, as from 3 December 1985, by section 20(5) Goods and Services Tax Amendment Act 1986 (1986 No 43) by inserting the words “or debit note”

Subsection (3)(e) was amended, as from 3 December 1985, by section 20(6) Goods and Services Tax Amendment Act 1986 (1986 No 43) by inserting the words “and that the terms of the prompt payment discount offer are clearly stated on the face of the tax invoice”

Subsections (3A) and (3B) were inserted, as from 3 December 1985, by section 20(7) Goods and Services Tax Amendment Act 1986 (1986 No 43).

Subsection (3C) was inserted, as from 19 December 1989, by section 12 Goods and Services Tax Amendment Act (No 2) 1989 (1989 No 152).

Subsection (4) was substituted, as from 3 December 1985, by section 20(8) Goods and Services Tax Amendment Act 1986 (1986 No 43).

Subsection (5) was amended, as from 3 December 1985, by section 20(9) Goods and Services Tax Amendment Act 1986 (1986 No 43) by substituting the words “of input tax pursuant to section 20(3)” for the words “pursuant to section 20(3)(c)”

Subsection (5) was amended, as from 25 November 2003, by section 159(2) Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 (2003 No 122) by substituting the words “deduction under” for the words “deduction of input tax pursuant to”.

Subsection (6) was inserted, as from 3 December 1985, by section 20(10) Goods and Services Tax Amendment Act 1986 (1986 No 43).

## **25AA Consequences of change in contract for imported services**

- (1) Despite section 25, this section applies in relation to a supply of services by a non-resident that is treated by sections 5B and 8(4B) as being made in New Zealand by the recipient of the supply if—
- (a) any one of the following is satisfied:
    - (i) the supply of services has been cancelled:
    - (ii) the nature of the supply of services has been fundamentally varied or altered:
    - (iii) the previously agreed consideration for the supply of services has been altered, whether due to the offer of a discount or otherwise:

- (iv) the services or part of the services supplied have been returned to the non-resident; and
  - (b) an incorrect return has been made for the taxable period for which output tax on the supply is attributable.
- (2) A person who has accounted for an incorrect amount of output tax must make an adjustment to the calculation of tax payable in the return for the taxable period in which it becomes apparent that the amount of output tax was incorrect, and if the output tax properly charged on the supply is—
  - (a) more than the output tax actually accounted for by the person, the amount of the excess is treated as being tax charged in relation to a taxable supply made by the person:
  - (b) less than the output tax actually accounted for by the person, the amount of the deficiency is a deduction under section 20(3) for the person.
- (3) A person who has accounted for an incorrect amount of deductions must make an adjustment to the calculation of tax payable in the return for the taxable period in which it becomes apparent that the amount of deductions was incorrect, and if the deduction properly resulting from the supply is—
  - (a) less than the deduction actually claimed by the person, the amount of the deficiency is treated as being tax charged in relation to a taxable supply made by the person:
  - (b) more than the deduction actually claimed by the person, the amount of the excess is a deduction under section 20(3) for the person.

Section 25AA was inserted, as from 1 January 2005, by section 160 Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 (2003 No 122). See clause 2 Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act Commencement Order 2004 (SR 2004/226).

**25A Commissioner may approve use of symbols, etc, on electronically transmitted invoices and credit and debit notes**

- (1) The Commissioner may, for the purpose of facilitating the electronic transfer of tax invoices and credit or debit notes, approve the use in any such electronic transfer of symbols, abbreviations, or other notations to represent any particulars

required by section 24 or 25 of this Act to be contained in a tax invoice or a credit or debit note.

- (2) Any such approval—
- (a) May be expressed to apply generally, or to such registered person or class of registered persons as the Commissioner may specify:
  - (b) May be limited to such cases or be subject to such conditions as the Commissioner thinks fit to impose:
  - (c) May be withdrawn or varied by the Commissioner at any time on the giving of such notice as is reasonable in the circumstances.

Section 25A was inserted, as from 13 March 1992, by section 7 Goods and Services Tax Amendment Act 1992 (1992 No 2).

## 26 Bad debts

- (1) Where a registered person—
- (a) Has made a taxable supply for consideration in money; and
  - (b) Has furnished a return in relation to the taxable period during which the output tax on the supply was attributable and has properly accounted for the output tax on that supply as required under this Act; and
  - (c) Has written off as a bad debt the whole or part of the consideration not paid to that person,—

that registered person shall make a deduction under section 20(3) of this Act of that portion of the amount of tax charged in relation to that supply as the amount written off as a bad debt bears to the total consideration for the supply:

Provided that where goods are supplied under a hire purchase agreement, the registered person shall only make a deduction under section 20(3) of this Act of the tax fraction (being the tax fraction applicable at the time that the hire purchase agreement was entered into) of that portion of the amount written off as a bad debt as the cash price bears to the total amount payable under the hire purchase agreement:

*[Repealed]*

- (1AA) Subsection (1) also applies if a registered person sells a debt to a third party and then reacquires the debt.

- (1AB) A registered person who is required to account for tax payable on a payments basis under either section 19 or section 19A must apply this section only to supplies made by the person to which any one of sections 9(2)(b), 9(3)(b) and 26A applies.
- (1A) Where a registered person has, in respect of the supply by that registered person of any contract of insurance (being a supply charged with tax pursuant to section 8(1) of this Act),—
- (a) Paid any amount to the Earthquake and War Damage Commission pursuant to the Earthquake and War Damage Act 1944 or to the New Zealand Fire Service Commission pursuant to the Fire Service Act 1975; and
  - (b) Sought to recover that amount, together with the consideration for that supply, from the recipient of that supply; and
  - (c) Written off as a bad debt the whole or part of that amount not paid to that registered person,—
- that registered person shall make a deduction under section 20(3) of this Act of the tax fraction of that amount or that part of that amount written off.
- (2) Where any amount in respect of which a deduction has been made in accordance with subsection (1) of this section is at any time wholly or partly recovered by the registered person, that portion of the amount of the deduction allowable under subsection (1) of this section as the amount of the bad debt recovered bears to the bad debt written off shall be deemed to be the tax charged in relation to a taxable supply made during the taxable period in which the bad debt is wholly or partly recovered.

Subsection (1) was amended, as from 3 December 1985, by section 21(1) Goods and Services Tax Amendment Act 1986 (1986 No 43) by omitting the words “who is required to account for tax payable on an invoice basis pursuant to section 19 of this Act”

Subsection (1) first proviso was amended, as from 1 April 2005, by section 139 Credit Contracts and Consumer Finance Act 2003 (2003 No 52) by omitting the words “to which the Hire Purchase Act 1971 applies”. See sections 141 to 143 of that Act as to the transitional provisions.

Subsection (1) second proviso was inserted, as from 3 December 1985, by section 21(2) Goods and Services Tax Amendment Act 1986 (1986 No 43).

Subsection (1) second proviso was amended, as from 1 April 1991, by section 5(2) Goods and Services Tax Amendment Act 1991 (1991 No 11) by inserting the expression “or section 19A”.

Subsection (1) second proviso was repealed by section 103(1) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39) with application on 10 October 2000.

Subsections (1AA) and (1AB) were inserted by section 103(2) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39) with application as from 10 October 2000.

Subsection (1A) was inserted, as from 3 December 1985, by section 21(3) Goods and Services Tax Amendment Act 1986 (1986 No 43).

In subsection (1A)(a) the reference to the New Zealand Fire Service Commission was substituted for a reference to the Fire Service Commission by section 4(5) of the Fire Service Act 1975 (1975 No 42)).

## **26A Factored debts**

- (1) This section applies to a registered person who—
- (a) sells a debt to another person during a taxable period; and
  - (b) is required to account for tax payable on a payments basis.
- (2) The sale of the debt is treated as being a taxable supply—
- (a) that is made by the registered person during the taxable period; and
  - (b) on which the amount of tax charged is the tax fraction of the remaining book value of the debt.

Section 26A was inserted by section 104(1) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39) with application as from 10 October 2000.

Section 26A was substituted, as from 21 June 2005, by section 158 Taxation (Base Maintenance and Miscellaneous Provisions) Act 2005 (2005 No 79).

## **Part 4**

### **Assessment of tax**

Part 4 (comprising sections 27 to 31) was repealed, as from 21 December 2004, by section 154(1) Taxation (Venture Capital and Miscellaneous Provisions) Act 2004 (2004 No 111) with application for taxable periods beginning on or after 1 April 2005.

## **27 Assessment of tax**

*[Repealed]*

Subsection (1) was substituted, as from 14 December 1992, by section 6(1) Goods and Services Tax Amendment Act (No 2) 1992 (1992 No 116).

Subsection (1)(ca) was inserted, as from 1 August 1990, by section 9(1) Goods and Services Tax Amendment Act 1990 (1990 No 64).

Subsection (1) was amended, as from 1 October 1996, by section 5(1)(a) and (b) Goods and Services Tax Amendment Act 1996 (1996 No 59) by substituting the expression “sections 108A and 108B and Part 4A of the Tax Administration Act 1994” for the expression “section 31 of this Act”, and by inserting, after the words “pursuant to this Act”, the words “and the Tax Administration Act 1994”. *See* section 1(3) of that Act as to the application of this amendment in relation to other provisions of this Act.

Subsection (1) was amended, as from 1 October 1996, by section 5(1)(d) Goods and Services Tax Amendment Act 1996 (1996 No 59) by inserting the words “or by proceedings on a challenge”. *See* section 1(3) of that Act as to the application of this amendment in relation to other provisions of this Act.

Subsection (1) was amended by section 5(2) Goods and Services Tax Amendment Act 1996 (1996 No 59) by inserting the words “or by proceedings on a challenge” with application to tax obligations, liabilities, and rights that are to be performed under or arise in relation to supplies made in respect of taxable periods commencing as from 1 April 1997. *See* section 1(3) of that Act as to the application of this amendment in relation to other provisions of this Act. Note that section 5(1)(d) of that Act had already made this amendment as from 1 October 1996.

Subsection (1)(ca) was inserted by section 113(1) Taxation (Remedial Provisions) Act 1997 (1997 No 74) with application to tax obligations, liabilities, and rights that are to be performed under or arise in relation to supplies made in respect of taxable periods commencing on or after 1 April 1997.

Subsection (1)(ea) was inserted by section 5(1)(c) Goods and Services Tax Amendment Act 1996 (1996 No 59) with application to tax obligations, liabilities, and rights that are to be performed under or arise in relation to supplies made in respect of taxable periods commencing as from 1 April 1997. *See* section 1(3) of that Act as to the application of this amendment in relation to other provisions of this Act.

Subsection (1)(ea) was repealed by section 105(1) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39) with application on 10 October 2000.

Subsections (1A) and (1B) were inserted, as from 22 June 1987, by section 7(1) Goods and Services Tax Amendment Act 1987 (1987 No 103).

Subsection (1A) was substituted, as from 14 December 1992, by section 6(1) Goods and Services Tax Amendment Act (No 2) 1992 (1992 No 116).

Subsection (1B) was inserted, as from 22 June 1987, by section 7(1) Goods and Services Tax Amendment Act 1987 (1987 No 103).

Subsection (1B) was repealed, as from 14 December 1992, by section 6(1) Goods and Services Tax Amendment Act (No 2) 1992 (1992 No 116).

Subsection (2) was amended by section 5(3) Goods and Services Tax Amendment Act 1996 (1996 No 59) by substituting the words “sections 108A and 108C and Part 4A of the Tax Administration Act 1994” for the words “section 31 of this Act” with application to tax obligations, liabilities, and rights that are to be performed under or arise in relation to supplies made in respect of taxable periods commencing as from 1 April 1997. *See* section 1(3) of that Act as to the application of this amendment in relation to other provisions of this Act.

Subsection (2) was substituted by section 113(2) Taxation (Remedial Provisions) Act 1997 (1997 No 74) with application to tax obligations, liabilities, and rights that are to be performed under or arise in relation to supplies made in respect of taxable periods commencing on or after 1 April 1997.

Subsection (3) was substituted, as from 22 June 1987, by section 7(2) Goods and Services Tax Amendment Act 1987 (1987 No 103).

Subsection (3) was substituted, as from 14 December 1992, by section 6(2) Goods and Services Tax Amendment Act (No 2) 1992 (1992 No 116).

Subsection (3) was amended by section 5(4) Goods and Services Tax Amendment Act 1996 (1996 No 59) by inserting the words “or the Tax Administration Act 1994” with application to tax obligations, liabilities, and rights that are to be performed under or arise in relation to supplies made in respect of taxable periods commencing as from 1 April 1997. *See* section 1(3) of that Act as to the application of this amendment in relation to other provisions of this Act.

In subsection (4) the word “wilful” was omitted, as from 1 August 1990, by section 9(2) Goods and Services Tax Amendment Act 1990 (1990 No 64).

Subsection (4) was repealed by section 5(5) Goods and Services Tax Amendment Act 1996 (1996 No 59) with application to tax obligations, liabilities, and rights that are to be performed under or arise in relation to supplies made in respect of taxable periods commencing as from 1 April 1997. *See* section 1(3) of that Act as to the application of this amendment in relation to other provisions of this Act.

Subsection (5A) (as inserted, as from 1 August 1990, by section 9(3) Goods and Services Tax Amendment Act 1990 (1990 No 64)) was amended, as from 14 December 1992, by section 6(3) Goods and Services Tax Amendment Act (No 2) 1992 (1992 No 116) by substituting the expression “subsection (1)(c)” for the expression “subsection (1)(ca)”.

Subsection (5A) was amended by section 5(6) Goods and Services Tax Amendment Act 1996 (1996 No 59) by substituting the expression “and VI of this Act, and Part 9 of the Tax Administration Act 1994,” for the expression “VI and X of this Act” with application to tax obligations, liabilities, and rights that are to be performed under or arise in relation to supplies made in respect of taxable periods commencing as from 1 April 1997. *See* section 1(3) of that Act as to the application of this amendment in relation to other provisions of this Act.

Subsection (6) was substituted, as from 14 December 1992, by section 6(4) Goods and Services Tax Amendment Act (No 2) 1992 (1992 No 116).

Subsection (6) was amended from 22 June 1987 by section 7(3) Goods and Services Tax Amendment Act 1987 (1987 No 103) and from 24 March 1988 section 13(1) Goods and Services Tax Amendment Act 1988 (1988 No 7).

Subsection (6) was amended by section 5(7) Goods and Services Tax Amendment Act 1996 (1996 No 59) by substituting the expression “and VI of this Act, and Part 9 of the Tax Administration Act 1994,” for the expression “VI and X of this Act” with application to tax obligations, liabilities, and rights that are to be performed under or arise in relation to supplies made in respect of taxable periods commencing as from 1 April 1997. *See* section 1(3) of that Act as to the application of this amendment in relation to other provisions of this Act.

Part 4 (comprising sections 27 to 31) was repealed, as from 21 December 2004, by section 154(1) Taxation (Venture Capital and Miscellaneous Provisions) Act

2004 (2004 No 111) with application for taxable periods beginning on or after 1 April 2005.

**28 Validity of assessments not affected by failure to comply with Act**

*[Repealed]*

Part 4 (comprising sections 27 to 31) was repealed, as from 21 December 2004, by section 154(1) Taxation (Venture Capital and Miscellaneous Provisions) Act 2004 (2004 No 111) with application for taxable periods beginning on or after 1 April 2005.

**29 Assessments deemed correct except in proceedings on objection**

*[Repealed]*

Section 29 was amended, as from 1 October 1996, by section 6 Goods and Services Tax Amendment Act 1996 (1996 No 59) by substituting the words “Except in proceedings under Part 8A of the Tax Administration Act 1994” for the words “Except in proceedings on objection to an assessment under section 33 of this Act”. See section 1(3) of that Act as to the application of this amendment in relation to other provisions of this Act.

Part 4 (comprising sections 27 to 31) was repealed, as from 21 December 2004, by section 154(1) Taxation (Venture Capital and Miscellaneous Provisions) Act 2004 (2004 No 111) with application for taxable periods beginning on or after 1 April 2005.

**30 Evidence of returns and assessments**

*[Repealed]*

Section 30 was amended, as from 1 April 1995, by section 54 Taxation (Remedial Provisions) 1996 (1996 No 159) by section 54 Taxation (Remedial Provisions) Act 1996 (1996 No 159) by substituting the words “an officer of the Department” for the words “a District Commissioner” and the words “District Commissioner”.

Part 4 (comprising sections 27 to 31) was substituted, as from 21 December 2004, by section 154(1) Taxation (Venture Capital and Miscellaneous Provisions) Act 2004 (2004 No 111) with application for taxable periods beginning on or after 1 April 2005.

**31 Application of Parts 4A and 8A of Tax Administration Act 1994**

*[Repealed]*

Subsection (1A) was inserted, as from 22 June 1987, and the original subsection (2) was substituted, as from 22 June 1987, by section 8 Goods and Services Tax Amendment Act 1987 (1987 No 103).

Subsection (2) was substituted, as from 22 June 1987, by section 8 Goods and Services Tax Amendment Act 1987 (1987 No 103).

Section 31 was substituted, as from 1 October 1996, by section 7 Goods and Services Tax Amendment Act 1996 (1996 No 59). *See* section 1(3) of that Act as to the application of this amendment in relation to other provisions of this Act.

Part 4 (comprising sections 27 to 31) was substituted, as from 21 December 2004, by section 154(1) Taxation (Venture Capital and Miscellaneous Provisions) Act 2004 (2004 No 111) with application for taxable periods beginning on or after 1 April 2005.

## Part 5 Objections

Part 5 (comprising sections 32 to 40) was repealed, as from 1 October 1996, by section 8(1) Goods and Services Tax Amendment Act 1996 (1996 No 59). *See* section 8(2) to (4) of that Act as to the savings provisions. *See* also section 1(3) of that Act as to the application of this amendment in relation to other provisions of this Act.

### 32 Objections to certain decisions

*[Repealed]*

In subsection (1) the word “satisfaction”, was inserted, as from 1 August 1990, in 2 places by section 10 Goods and Services Tax Amendment Act 1990 (1990 No 64).

Subsection (1)(a) to (k) were substituted, as from 3 December 1985, for the original paragraphs (a) to (g) by section 22 Goods and Services Tax Amendment Act 1986 (1986 No 43).

Subsection (1)(a) and (aa) were substituted, as from 1 August 1990, for the former subsection (1)(a) by section 4(6) Goods and Services Tax Amendment Act 1990 (1990 No 64).

Subsection (1)(b) and (ba) were substituted, as from 17 March 1988, for the former paragraphs (b) and (ba) (by section 2(8) Goods and Services Tax Amendment Act (No 2) 1988 (1988 No 15).

Subsection (1)(b) was substituted, and subsection (1)(ba) was inserted, as from 24 March 1988 by section 14 Goods and Services Tax Amendment Act 1988 (1988 No 7).

Subsection (1)(ba) was substituted, as from 8 August 1990, by section 8(1) Goods and Services Tax Amendment Act (No 2) 1990 (1990 No 93)

Subsection (1)(ca) was inserted, as from 1 April 1991, by section 5(1) Goods and Services Tax Amendment Act 1991 (1991 No 11).

Subsection (3) was amended by section 7(1) Goods and Services Tax Amendment Act (No 2) 1992 (1992 No 116) by substituting the expression “2 months” for the expression “28 days”, with application to decisions notified on or after 1 December 1982.

Subsection (6) was amended, as from 1 April 1995, by section YB 1 Income Tax Act 1994 (1994 No 164) by substituting the words “the Taxation Review Authorities Act 1994” for the words “Part 2 of the Inland Revenue Department Act 1974”.

Part 5 (comprising sections 32 to 40) was repealed, as from 1 October 1996, by section 8(1) Goods and Services Tax Amendment Act 1996 (1996 No 59). See section 8(2) to (4) of that Act as to the savings provisions. See also section 1(3) of that Act as to the application of this amendment in relation to other provisions of this Act.

### **33 Objections to assessments**

*[Repealed]*

Subsection (1) was amended by section 8(1) Goods and Services Tax Amendment Act (No 2) 1992 (1992 No 116) by substituting the expression “2 months” for the expression “28 days”, with application to assessments in respect of which the notice of assessment is given on or after 1 December 1992. The words “, or within such extended time as the Commissioner may allow on the application of the person made before the expiry of ... respect of the assessment” were inserted, as from 13 March 1992, by section 8(1) Goods and Services Tax Amendment Act 1992 (1992 No 2).

Subsection (2) was amended, as from 13 March 1992, by section 8(2) Goods and Services Tax Amendment Act 1992 (1992 No 2) by inserting the words “, or after such extended time as the Commissioner may allow under subsection (1) of this section,”.

Part 5 (comprising sections 32 to 40) was repealed, as from 1 October 1996, by section 8(1) Goods and Services Tax Amendment Act 1996 (1996 No 59). See section 8(2) to (4) of that Act as to the savings provisions. See also section 1(3) of that Act as to the application of this amendment in relation to other provisions of this Act.

### **34 Commissioner may amend assessment, or objections may be submitted to Taxation Review Authority**

*[Repealed]*

Subsection (2) was amended, as from 1 April 1995, by section YB 1 Income Tax Act 1994 (1994 No 164) by substituting the words “the Taxation Review Authorities Act 1994” for the words “Part 2 of the Inland Revenue Department Act 1974”. The amending Act incorrectly amends subsection (3) of this Act.

Part 5 (comprising sections 32 to 40) was repealed, as from 1 October 1996, by section 8(1) Goods and Services Tax Amendment Act 1996 (1996 No 59). See section 8(2) to (4) of that Act as to the savings provisions. See also section 1(3) of that Act as to the application of this amendment in relation to other provisions of this Act.

### **35 Powers of Taxation Review Authority on determination of objection or case stated**

*[Repealed]*

Part 5 (comprising sections 32 to 40) was repealed, as from 1 October 1996, by section 8(1) Goods and Services Tax Amendment Act 1996 (1996 No 59). See section 8(2) to (4) of that Act as to the savings provisions. See also section 1(3) of that Act as to the application of this amendment in relation to other provisions of this Act.

### **36 When objection may be referred in first instance to High Court**

*[Repealed]*

Subsection (2) was amended, as from 28 September 1993, by section 4(1) Goods and Services Tax Amendment Act (No 2) 1993 (1993 No 131) by inserting the words “, and shall notify ... objector accordingly”.

Subsections (5) to (9F) were substituted, as from 28 September 1993, for the original subsections (5) to (9), by section 4(2) Goods and Services Tax Amendment Act (No 2) 1993 (1993 No 131).

Subsection (10) was amended, as from 28 September 1993, by section 4(3) Goods and Services Tax Amendment Act (No 2) 1993 (1993 No 131) by substituting the words “a proceeding” for the words “an action”.

Subsection (10) was amended, as from 1 April 1995, by section YB 1 Income Tax Act 1994 (1994 No 164) by substituting the words “Sections 16(2), 17, and 18 of the Taxation Review Authorities Act 1994” for the words “Sections 34(2), 35, and 36 of the Inland Revenue Department Act 1974.”.

Part 5 (comprising sections 32 to 40) was repealed, as from 1 October 1996, by section 8(1) Goods and Services Tax Amendment Act 1996 (1996 No 59). See section 8(2) to (4) of that Act as to the savings provisions. See also section 1(3) of that Act as to the application of this amendment in relation to other provisions of this Act.

### **36A Test case procedure**

*[Repealed]*

Section 36A was inserted, as from 28 September 1993, by section 5 Goods and Services Tax Amendment Act (No 2) 1993 (1993 No 131).

Part 5 (comprising sections 32 to 40) was repealed, as from 1 October 1996, by section 8(1) Goods and Services Tax Amendment Act 1996 (1996 No 59). See section 8(2) to (4) of that Act as to the savings provisions. See also section 1(3) of that Act as to the application of this amendment in relation to other provisions of this Act.

### **37 Obligation to pay tax where objection lodged**

*[Repealed]*

Subsection (1) Day of determination of final liability: amended, as from 28 September 1993, by section 6(1) Goods and Services Tax Amendment Act (No 2) (1993 No 131) by inserting paragraphs (aa) and (ab).

Subsection (1) Day of determination of final liability: paragraph (ab) was amended, as from 1 April 1995, by section YB 1 Income Tax Act 1994 (1994 No 164) by substituting the words "Tax Administration Act 1994" for the words "Inland Revenue Department Act 1974."

Part 5 (comprising sections 32 to 40) was repealed, as from 1 October 1996, by section 8(1) Goods and Services Tax Amendment Act 1996 (1996 No 59). See section 8(2) to (4) of that Act as to the savings provisions. See also section 1(3) of that Act as to the application of this amendment in relation to other provisions of this Act.

### **38 Interest on certain excess tax**

*[Repealed]*

In subsection (6) the reference to the Crown Bank Account was substituted, as from 1 July 1989, for a reference to the Consolidated Account by section 83(7) of the Public Finance Act 1989 (1989 No 44).

Subsection (7) was amended, as from 1 April 1995, by section YB 1 Income Tax Act 1994 (1994 No 164) by substituting the words "section 120(5) of the Tax Administration Act 1994, and that rate shall have application for the same period as specified for the purposes of section 120 of that Act" for the words "subsection (8) of section 34A of the Income Tax Act 1976, and that rate shall have application for the same period as specified for the purposes of the said section 34A."

Part 5 (comprising sections 32 to 40) was repealed, as from 1 October 1996, by section 8(1) Goods and Services Tax Amendment Act 1996 (1996 No 59). See section 8(2) to (4) of that Act as to the savings provisions. See also section 1(3) of that Act as to the application of this amendment in relation to other provisions of this Act.

### **39 Determination of objection not to affect other assessments or decisions**

*[Repealed]*

Section 39 was substituted, as from 3 December 1985, by section 23 Goods and Services Tax Amendment Act 1986 (1986 No 43).

Part 5 (comprising sections 32 to 40) was repealed, as from 1 October 1996, by section 8(1) Goods and Services Tax Amendment Act 1996 (1996 No 59). See section 8(2) to (4) of that Act as to the savings provisions. See also section 1(3) of that Act as to the application of this amendment in relation to other provisions of this Act.

**40 Objections to which this Part does not apply***[Repealed]*

Paragraph (d) was amended, as from 1 April 1995, by section YB 1 Income Tax Act 1994 (1994 No 164) by substituting the words “Income Tax Act 1994 or the Tax Administration Act 1994” for the words “Income Tax Act 1976”.

Part 5 (comprising sections 32 to 40) was repealed, as from 1 October 1996, by section 8(1) Goods and Services Tax Amendment Act 1996 (1996 No 59). See section 8(2) to (4) of that Act as to the savings provisions. See also section 1(3) of that Act as to the application of this amendment in relation to other provisions of this Act.

**Part 6  
Recovery of tax****41 Additional tax to be payable if default made in payment of tax***[Repealed]*

Subsection (1A) was inserted, as from 31 March 1991, by section 3(1) Goods and Services Tax Amendment Act (No 2) 1991 (1991 No 15).

Subsection (1A) was amended, as from 1 April 1995, by section YB 1 Income Tax Act 1994 (1994 No 164) by substituting the words “section 175 of the Tax Administration Act 1994” for the words “section 411A of the Income Tax Act 1976”.

Subsection (2) was amended, as from 1 April 1995, by section YB 1 Income Tax Act 1994 (1994 No 164) by substituting the words “section 139 of the Tax Administration Act 1994, except subsection (1)” for the words “section 398 of the Income Tax Act 1976, except subsection (2)”.

Subsection (2)(a), (b) and (c) was amended, as from 1 April 1995, by section YB 1 Income Tax Act 1994 (1994 No 164) by substituting the expression “section 139” for the expression “section 398”.

Subsection (2)(d) was amended, as from 1 April 1995, by section YB 1 Income Tax Act 1994 (1994 No 164) by substituting the words “section 139 to subsection (1)” for the words “section 398 to subsection (2)”.

Subsection (2)(e) was amended, as from 1 April 1995, by section YB 1 Income Tax Act 1994 (1994 No 164) by substituting the words “subsection (3)(d) and (e) of the said section 139” for the words “subsection (4)(d) and (e) of the said section 398”.

Subsection (2)(f) was amended, as from 1 April 1995, by section YB 1 Income Tax Act 1994 (1994 No 164) by substituting the expression “section 139” for the expression “section 398”.

Section 41 was repealed by section 9(1) Goods and Services Tax Amendment Act 1996 (1996 No 59) with application to tax obligations, liabilities, and rights that are to be performed under or arise in relation to supplies made in respect of taxable periods commencing as from 1 April 1997. See section 9(2) of that Act as to the transitional provisions. See also section 1(3) of that Act as to the application of this amendment in relation to other provisions of this Act.

**42 Recovery of tax**

- (1) Tax payable by any person shall be recoverable as a debt due to the Crown.
- (2) Where a person has not paid the amount of the tax payable or any part thereof in the manner required by Part 3 of this Act, the amount of the tax for the time being unpaid to the Commissioner shall, in the application of the assets of the person, rank as follows:
  - (a) Where the person is an individual, whether or not a member of an unincorporated body, upon that person's bankruptcy or upon that person making an assignment for the benefit of that person's creditors, the amount of the tax payable shall rank without limitation in amount, in order of priority immediately after preferential claims for wages or other sums payable to or on account of any servant or worker or apprentice or articed clerk, and in priority to all other claims:
  - (b) Where the person is a company, upon the liquidation of the company, the amount of the tax payable shall have the ranking provided for in Schedule 7 to the Companies Act 1993 (whether or not the company has been incorporated or registered under that Act):
    - (ba) Where the person is a company, upon the appointment of a receiver on behalf of the holder of any debenture given by the company secured by a charge over any property of the company or upon possession being taken on behalf of the debenture holder of the property, the amount of the tax payable shall have the ranking provided for in Schedule 7 to the Companies Act 1993 (whether or not the company has been incorporated or registered under that Act), as if the receiver or person taking possession were a liquidator:
  - (c) if a person is an unincorporated body, on the appointment of a receiver on behalf of any person, the amount of tax payable—
    - (i) ranks immediately after any preferential claims for any wages or other sums payable to or on account of any servant, worker, apprentice, or articed clerk; and

- (ii) ranks in priority over any claims of any person under a security interest to the extent that the security interest—
    - (A) is over all or any part of the unincorporated body's accounts receivable and inventory or all or any part of either of them; and
    - (B) is not a purchase money security interest that has been perfected at the time specified in section 74 of the Personal Property Securities Act 1999; and
    - (C) is not a security interest that has been perfected under the Personal Property Securities Act 1999 at the time of the receiver's appointment and that arises from the transfer of an account receivable for which new value is provided by the transferee for the acquisition of that account receivable (whether or not the transfer of the account receivable secures payment or performance of an obligation); and
  - (iii) must be paid accordingly out of any accounts receivable and inventory that are subject to the security interest (or their proceeds).
- (3) This section shall apply notwithstanding anything in any other Act.
- (4) In subsection (2)(c), the terms **account receivable**, **inventory**, **new value**, **proceeds**, **purchase money security interest**, and **security interest** have the same meanings as in the Personal Property Securities Act 1999.
- (5) The provisions of this section, as in force immediately before the commencement of the Personal Property Securities Act 1999, continue to apply in respect of a person that is a body or an unincorporated body whose property was subject to a floating charge that, before the commencement of that Act, became a fixed or specific charge.

Subsection (2) was amended, as from 1 April 1993, by section 7(a) and (b) Goods and Services Tax Amendment Act 1993 (1993 No 10) by inserting the words “section 12 or section 13 and” and the words “, or, as the case may be, the Comptroller of Customs”.

Subsection (2) was amended, as from 30 March 1995, by section 30 March 1995 by omitting the words “section 12 or section 13 and” and the words “, or, as the case may be, the Comptroller of Customs”.

Subsection (2)(a) was amended by section 106(1) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39) by substituting the words “an individual, whether or not a member of an unincorporated body” for the words “an individual”, with application as from 10 October 2000.

Subsection (2)(b) was substituted and subsection (2)(ba) was inserted, as from 1 July 1994, by section 5 Goods and Services Tax Amendment Act 1994 (1994 No 77).

Subsection (2)(c) was inserted, as from 1 August 1990, by section 11 Goods and Services Tax Amendment 1990 (1990 No 64).

Subsection (2)(c) was amended by section 69(1)(a) Taxation (Beneficiary Income of Minors, Services-Related Payments and Remedial Matters) Act 2001 (2001 No 4) by substituting the words “pursuant to any order by the Court” for the words “a body (as defined in section 57(1))”, with application as from 10 October 2000. It would appear that the intention was to replace the words “a body (as defined in section 57(1) of this Act)”.

Subsection (2)(c) was amended by section 69(1)(b) Taxation (Beneficiary Income of Minors, Services-Related Payments and Remedial Matters) Act 2001 (2001 No 4) by omitting the words “pursuant to any order by the Court”, with application as from 10 October 2000.

Subsection (2)(c) was substituted, as from 1 May 2002, by section 191(1) Personal Property Securities Act 1999 (1999 No 126). *See* also Part 12 of that Act for transitional provisions.

Section 42(2)(c)(ii)(B): amended, on 3 December 2007, by section 445 of the Insolvency Act 2006 (2006 No 55).

Section 42(2)(c)(ii)(C): amended, on 3 December 2007, by section 445 of the Insolvency Act 2006 (2006 No 55).

Subsection (4) was substituted, and subsection (5) was inserted, as from 1 May 2002, by section 191(1) Personal Property Securities Act 1999 (1999 No 126). *See* also Part 12 of that Act for transitional provisions.

### **43 Deduction of tax from payment due to defaulters**

(1) For the purposes of this section—

**Amount payable**, in relation to a person and to any registered person means—

- (a) Any amount that, on the day on which a notice to the person is given under subsection (2) of this section in relation to the registered person, is payable by the person (whether on that person’s own account, or as an agent, or as a trustee, or otherwise howsoever) to the registered person:

- (b) Any amount that, on any day following the day referred to in paragraph (a) of this definition, is, or becomes, before any revocation (under subsection (4) of this section) of the notice so given, payable by the person (whether on that person's own account, or as an agent, or as a trustee, or otherwise howsoever) to the registered person,—

and includes—

- (c) Where the person is a bank, money (including any interest thereon) that—
- (i) On the day on which a notice to the person is given under subsection (2) of this section in relation to the registered person, is on deposit or is deposited with the person to the credit of the registered person; or
- (ii) On any day following the day referred to in subparagraph (i) of this paragraph is on deposit or is deposited, before any revocation (under subsection (4) of this section) of the notice so given, with the person to the credit of the registered person,—

whether the deposit or the depositing is on current account, or so as to bear interest for a fixed term or without limitation of time, and whether or not the registered person has made any application to withdraw or uplift the money,—

but does not include money deposited in any account that is—

- (d) A Home Layby Account within the meaning of the Post Office Act 1959; or
- (e) A Home Ownership Account within the meaning of the Home Ownership Savings Act 1974; or
- (f) A Farm Ownership Account within the meaning of the Farm Ownership Savings Act 1974; or
- (g) A Fishing Vessel Ownership Account within the meaning of the Fishing Vessel Ownership Savings Act 1977:

**Bank** means—

- (a)  
(b)  
(c)

- (d) Any building society registered under the Building Societies Act 1965, in respect of any deposits with the building society:
  - (e) Any person (not being a person of any of the kinds referred to in paragraphs (a) to (d) of this definition) that is a bank within the meaning of the Banking Act 1982.
- (2) Where any registered person has made default in the payment to the Commissioner of any tax or interest or late payment penalty or shortfall penalty payable by the registered person under this Act or the Tax Administration Act 1994, or any part of any such interest or tax or penalty, (collectively referred to in this section as **unpaid tax**), the Commissioner may from time to time by notice in writing require any person to—
- (a) Deduct or extract, in one sum, from any amount that is, or becomes, an amount payable in relation to that registered person such sum as is equal to the lesser of—
    - (i) The amount that, pursuant to the notice, is required to be deducted or extracted:
    - (ii) The amount that, at the time at which the deduction or extraction is required to be made in compliance with the notice, is the said amount payable:
  - (b) Subject to subsection (3) of this section, deduct or extract from time to time, by way of instalment, from any amount that is or, as the case may be, from time to time becomes, an amount payable in relation to the registered person such sum as is equal to the lesser of—
    - (i) The amount that, at the time at which the deduction or extraction is required to be made in compliance with the notice, is the amount required to be so deducted or extracted:
    - (ii) The amount that, pursuant to the notice, at the time at which the amount of the instalment is required to be deducted or extracted, is the said amount payable,—

and require that person to pay to the Commissioner, within such time as is specified in the notice, every sum so deducted or extracted, to the credit of an account maintained by the Com-

missioner in relation to that registered person in respect of that unpaid tax.

- (2A) A notice of amount to be deducted or extracted issued under subsection (1) may include a daily amount of interest as well as the amount required to be deducted or extracted.
- (2B) The daily amount of interest notified under subsection (2A) shall be calculated for each day, commencing on the date of the notice and ending on the day on which the sum required by the notice is deducted or extracted.
- (3) Where any notice under this section relates to any amount payable that consists of wages or salary, the sums required to be deducted therefrom shall be calculated so as to not exceed the greater of—
- (a) An amount equal to the lesser of the following amounts:
    - (i) An amount calculated at the rate of 10 percent per week of the unpaid tax of the registered person at the date of the notice:
    - (ii) An amount calculated at the rate of 20 percent of the said wages or salary payable:
  - (b) The amount of \$10 per week.
- (4) Any notice under this section may be at any time revoked by the Commissioner by a subsequent notice to the person to whom the original notice was given (in this section referred to as the debtor), and shall be so revoked at the request of the registered person at any time when the Commissioner is satisfied that all unpaid tax then due and payable by the registered person has been paid.
- (5) A copy of every notice given, under subsection (2) or subsection (4) of this section, to any person in respect of any unpaid tax shall be given forthwith by the Commissioner to the registered person; and, for the purposes of section 17 of the Tax Administration Act 1994, every such copy shall be deemed to be a notice required by this Act to be given by the Commissioner to the registered person.
- (6) Whenever, pursuant to a notice under this section, any deduction or extraction is made from any amount payable to any registered person, that registered person shall be entitled to receive from the debtor a statement in writing of the fact of the

deduction or extraction and of the purpose for which it was made.

- (7) Any person making any deduction, extraction, or payment pursuant to a notice under this section shall be deemed to have been acting under the authority of the registered person to whom the notice relates and of all other persons concerned and is hereby indemnified in respect of such deduction, extraction, or payment.
- (8) The sum deducted or extracted from any amount pursuant to a notice under this section shall be deemed to be held in trust for the Crown, and, without prejudice to any other remedies against the debtor or any other person, shall be recoverable in the same manner in all respects as if it were tax payable by the debtor.
- (9) Where, in relation to any notice under this section and during any period, that period being,—
  - (a) Where a notice under subsection (2) of this section requires any person, being a bank, to deduct or extract no more than one sum, the period that commences on the day on which the notice to the person is given and expires with the day on which the deduction or extraction is required to be made in compliance with the notice:
  - (b) Where a notice under subsection (2) of this section requires any person, being a bank, to deduct or extract more than one sum, by way of instalment,—
    - (i) In relation to the sum first required to be deducted or extracted in compliance with the notice, the period that commences on the day on which the notice to the person is given and expires with the day on which the deduction or extraction is so required to be made:
    - (ii) In relation to each succeeding sum required to be deducted or extracted in compliance with the notice, the period that commences on the day immediately following the day on which the previous deduction or extraction (being the deduction or extraction that, in relation to that succeeding sum, was the deduction or extraction last required to be made therebefore) was required to be made

in compliance with the notice and expires with the day on which that succeeding sum is so required to be deducted or extracted,—

any amount is, or becomes, an amount payable in relation to the registered person, that amount or, as the case may be, the aggregate of all such amounts shall, until the expiry of that period and to the extent of an amount that is equal to the amount of the sum that, in compliance with the notice, is required to be deducted or extracted, be deemed to be an amount held in trust for the Crown and, without prejudice to any other remedies against the debtor or any person, shall, if the deduction or extraction required to be made therefrom pursuant to the notice is not so made, be recoverable in the same manner in all respects as if it were tax payable by the debtor.

In subsection (1), paragraph (a) of the definition of the term bank was substituted, as from 1 April 1987, by section 16(4) State Services Conditions of Employment Amendment Act 1987 (1987 No 17). This amendment was declared to remain in force by section 112 of the State Sector Act 1988 (1986 No 43) notwithstanding the repeal of the said section 16(4) by section 88(1) State Sector Act 1988 (1988 No 20). In paragraph (b) of that definition, the Trustee Banks Act 1983 was repealed, as from 23 September 1988, by section 40(1) of the Trustee Banks Restructuring Act 1988 (1988 No 90).

Subsection (1) “Bank” paragraphs (a)-(c) were repealed, as from 1 July 1994, by section 6 Goods and Services Tax Amendment Act 1994 (1994 No 77)

In subsection (1), paragraph (d) of the definition amount payable, the Post Office Act 1959 was repealed, as from 1 January 1988, by section 2(1) of the Post Office Act Repeal Act 1987 (1987 No 115). As to paragraphs (e), (f), and (g), see section 41 of the Trustee Banks Restructuring Act 1988 (1988 No 90).

Subsection (2) was amended by section 10 Goods and Services Tax Amendment Act 1996 (1996 No 59) by substituting the words “or interest or late payment penalty or shortfall penalty payable by the registered person under this Act or the Tax Administration Act 1994, or any part of any such interest or tax or penalty, (collectively referred to in this section as **unpaid tax**)” for the words “or additional tax or penal tax payable by the registered person under this Act, or any part of such tax” with application to tax obligations, liabilities, and rights that are to be performed under or arise in relation to supplies made in respect of taxable periods commencing as from 1 April 1997. See section 1(3) of that Act as to the application of this amendment in relation to other provisions of this Act.

Subsections (2A) and (2B) were inserted, as from 1 April 1997, by section 114 Taxation (Remedial Provisions) Act 1997 (1997 No 74).

Subsection (5) was amended, as from 1 April 1995, by section YB 1 Income Tax Act 1994 (1994 No 164) by substituting the words “section 17 of the Tax Administration Act 1994” for the words “section 21C of the Inland Revenue Department Act 1974”.

**44 Application of certain provisions of Income Tax Act 1976 relating to recovery procedures**

*[Repealed]*

Section 44 was amended, as from 1 April 1995, by section YB 1 Income Tax Act 1994 (1994 No 164) by substituting the words “Sections 156 and 158 to 165 of the Tax Administration Act 1994” for the words “Sections 399 and 401 to 408 of the Income Tax Act 1976”.

Paragraph (b) was amended, as from 1 April 1995, by section YB 1 Income Tax Act 1994 (1994 No 164) by substituting the expression “section 162” for the expression “section 405”.

Paragraph (c) was amended, as from 1 April 1995, by section YB 1 Income Tax Act 1994 (1994 No 164) by substituting the words “sections 164 and 165” for the words “sections 407 and 408”.

Section 44 was repealed by section 11 Goods and Services Tax Amendment Act 1996 (1996 No 59) with application to tax obligations, liabilities, and rights that are to be performed under or arise in relation to supplies made in respect of taxable periods commencing as from 1 April 1997. *See* section 1(3) of that Act as to the application of this amendment in relation to other provisions of this Act.

**Part 7**

**Refunds and relief from tax**

**45 Refund of excess tax**

- (1) Subject to this Part, and to Part 11 of the Tax Administration Act 1994, the Commissioner must refund an amount that a person has paid as tax if—
  - (a) the Commissioner is satisfied that the amount represents an excess over the amount properly payable for a taxable period; and
  - (b) the 4-year period referred to in section 108A of the Tax Administration Act 1994 has not ended.
- (2) Despite section 20(5), the Commissioner must refund an amount that a person has paid as tax if—
  - (a) the Commissioner is satisfied that the person paid the amount as a result of an amendment to an assessment that increased the amount of tax payable by the registered person; and
  - (b) the Commissioner is satisfied that the amount represents an excess over the amount properly payable for a taxable period; and

- (c) the 4-year period beginning from the end of the year in which the assessment was amended has not ended.
- (3) Despite section 20(5), the Commissioner must refund an amount to a person if—
  - (a)
  - (b) the person has received a refund under section 19C(8), 20(5) or 46; and
  - (c) the Commissioner is satisfied that the person was entitled to receive the amount at the time of the refund but did not; and
  - (d) the 4-year period beginning from the end of the year in which the refund was made has not ended.
- (4) The Commissioner may refund an overpayment of tax that is referred to in subsection (2) or (3) after the end of the 4-year period referred to in the subsection, if—
  - (a) the overpayment of tax is the result of a clear mistake or simple oversight of the person; and
  - (b) the refund is made—
    - (i) within the period of 4 years beginning from the end of the 4-year period referred to in the subsection;
    - (ii) as a result of an application by or on behalf of the person that the Commissioner receives before or within the period of 4 years beginning from the end of the 4-year period referred to in the subsection.

Subsection (1) was substituted, except for the proviso, as from 3 December 1985, by section 24(1) Goods and Services Tax Amendment Act 1986 (1986 No 43).

Subsection (1) was amended by section 9(1) Goods and Services Tax Amendment Act (No 2) 1992 (1992 No 116) by substituting the words “assessed under section 27 of” for the words “payable properly calculated in accordance with”. This amendment shall apply with respect to tax payable in respect of returns due to be made (and if there is no due date for a return, supplies made) on or after 14 December 1992.

Subsection (1) was amended by section 12 Goods and Services Tax Amendment Act 1996 (1996 No 59) by inserting the words “and Part 11 of the Tax Administration Act 1994” with application to tax obligations, liabilities, and rights that are to be performed under or arise in relation to supplies made in respect of taxable periods commencing as from 1 April 1997. *See* section 1(3) of that Act as to the application of this amendment in relation to other provisions of this Act.

Subsection (2) was substituted, except for the proviso, as from 3 December 1985, by section 24(2) Goods and Services Tax Amendment Act 1986 (1986 No 43).

Subsection (2)(a) was amended by section 9(2) Goods and Services Tax Amendment Act (No 2) 1992 (1992 No 116) by substituting the words “so assessed” for the words “properly payable”. This amendment shall apply with respect to tax payable in respect of returns due to be made (and if there is no due date for a return, supplies made) on or after 14 December 1992.

Subsection (2)(b) was amended, as from 1 April 1991, by section 5(4) Goods and Services Tax Amendment Act 1991 (1991 No 11) by substituting the expression “section 19C(8)” for the expression “section 19(9)”.

Section 45 was substituted, as from 21 December 2004, by section 155 Taxation (Venture Capital and Miscellaneous Provisions) Act 2004 (2004 No 111) with application for taxable periods beginning as from 1 April 2005.

Subsection (1)(a) was amended, as from 21 December 2004, by section 159(1) Taxation (Base Maintenance and Miscellaneous Provisions) Act 2005 (2005 No 79) by substituting the words “properly payable” for the words “properly assessed” with application for taxable periods beginning as from 1 April 2005.

Subsection (1)(b) was amended, as from 21 December 2004, by section 159(2) Taxation (Base Maintenance and Miscellaneous Provisions) Act 2005 (2005 No 79) by substituting the word “ended” for the word “expired” with application for taxable periods beginning as from 1 April 2005.

Subsection (2)(a) was amended, as from 21 December 2004, by section 159(3) Taxation (Base Maintenance and Miscellaneous Provisions) Act 2005 (2005 No 79) by substituting the words “amendment to an assessment that increased” for the words “assessment that changed” with application for taxable periods beginning as from 1 April 2005.

Subsection (2)(b) was amended, as from 21 December 2004, by section 159(4) Taxation (Base Maintenance and Miscellaneous Provisions) Act 2005 (2005 No 79) by substituting the words “properly payable” for the words “properly assessed” with application for taxable periods beginning as from 1 April 2005.

Subsection (2)(c) was amended, as from 21 December 2004, by section 159(5) Taxation (Base Maintenance and Miscellaneous Provisions) Act 2005 (2005 No 79) by substituting the words “amended has not ended” for the words “made has not expired” with application for taxable periods beginning as from 1 April 2005.

Subsection (3) was amended, as from 21 December 2004, by section 159(6) Taxation (Base Maintenance and Miscellaneous Provisions) Act 2005 (2005 No 79) by substituting the words before para (a) with application for taxable periods beginning as from 1 April 2005.

Subsection (3)(a) was repealed, as from 21 December 2004, by section 159(6) Taxation (Base Maintenance and Miscellaneous Provisions) Act 2005 (2005 No 79) with application for taxable periods beginning as from 1 April 2005.

Subsection (3)(c) was substituted, as from 21 December 2004, by section 159(7) Taxation (Base Maintenance and Miscellaneous Provisions) Act 2005

(2005 No 79) with application for taxable periods beginning as from 1 April 2005.

Subsection (3)(d) was amended, as from 21 December 2004, by section 159(8) Taxation (Base Maintenance and Miscellaneous Provisions) Act 2005 (2005 No 79) by substituting the word “ended” for the word “expired” with application for taxable periods beginning as from 1 April 2005.

#### **46 Commissioner’s right to withhold payments**

- (1) Subject to this section, if the Commissioner is required to refund an amount to a registered person under section 19C(8) or section 20(5) of this Act, the Commissioner shall refund the amount—
  - (a) Except when paragraph (b) applies, not later than 15 working days following the day on which the registered person’s return was received by the Commissioner; or
  - (b) The day after the working day on which the Commissioner—
    - (i) Determines the amount is refundable, after first having—
      - (A) Investigated the circumstances of the return in accordance with subsection (2); or
      - (B) Reviewed the information requested in accordance with subsection (2); and
    - (ii) Is satisfied that the registered person has complied with the person’s tax obligations.
- (2) If the Commissioner is not satisfied with a return made by a registered person, the Commissioner—
  - (a) May investigate the circumstances of the return;
  - (b) May request the registered person to provide further information concerning the return.
- (3) If a registered person fails to provide a return for any taxable period as required by this Act, the Commissioner may withhold payment—
  - (a) Of any tax otherwise refundable under this Act or the Tax Administration Act 1994; or
  - (b) Of any interest payable under Part 7 of the Tax Administration Act 1994—until the registered person complies with the requirement.
- (4) The Commissioner must give a request for information concerning a return under subsection (2)—

- (a) Within a period of 15 working days following the day on which the return is received by the Commissioner (in the case of an initial request for information); and
  - (b) Within a period of 15 working days following the date of receipt of any information previously requested by the Commissioner (for subsequent requests for information).
- (5) The Commissioner must notify the registered person—
- (a) Of the Commissioner’s intention to investigate the circumstances of the return under subsection (2); and
  - (b) Of the Commissioner’s intention to withhold payment under subsection (3)—
- within 15 working days following the day on which the return is received by the Commissioner.
- (6) If, but for this subsection, a registered person would be entitled to an amount as a refund under section 19C(8) or 20(5) or 45 or under the Tax Administration Act 1994, or as a payment of interest under Part 7 of the Tax Administration Act 1994, the Commissioner may apply the amount, in accordance with a request under section 173T of the Tax Administration Act 1994 or in the absence of a request in such order or manner as the Commissioner may determine, in payment of—
- (a) tax that is payable by the person:
  - (b) an amount that is payable by the person under another Inland Revenue Act.
- (7) If, but for this subsection, a person who is a specified agent of an incapacitated person, as those terms are defined in section 58(1), would be allowed an amount as a deduction under section 20(3) by virtue of section 58(1C), the Commissioner may apply the amount in payment of—
- (a) tax that is payable by the incapacitated person:
  - (b) an amount that is payable by the incapacitated person under another Inland Revenue Act.
- (8)
- (9)

In subsections (1), (1B), (2), (3), and (5) of the original section 46 the expression “section 19C(8)” was substituted, as from 1 April 1991, for the expression “section 19(9)” by section 5(5) Goods and Services Tax Amendment Act 1991 (1991 No 11).

In subsections (1), (4), and (5) of the original section 46 the words “15 working days following” were substituted, as from 3 December 1985, for the words “15 working days from” by section 25(1)(a) Goods and Services Tax Amendment Act 1986 (1986 No 43).

In subsection (1) of the original section 46 a proviso was repealed, as from 1 August 1990, by section 12(1) Goods and Services Tax Amendment Act 1990 (1990 No 64).

Subsections (1A) and (1B) of the original section 46 were inserted, as from 1 August 1990, by section 12(2) Goods and Services Tax Amendment Act 1990 (1990 No 64).

In subsection (2) of the original section 46 the expression “subsections (3), (5), and (5A)” was substituted, as from 1 August 1990, for the expression “subsection (3)” by section 12(3)(a) Goods and Services Tax Amendment Act 1990 (1990 No 64). The words “and subsection (4)” were omitted, as from 3 December 1985, by section 25(1)(b) Goods and Services Tax Amendment Act 1986 (1986 No 43). The words “or any amount of ... this section” were inserted, as from 3 December 1985, by section 25(1)(c) Goods and Services Tax Amendment Act 1986 (1986 No 43).

In subsection (3) of the original section 46 the expression “subsections (5) and (5A)” was substituted, as from 1 August 1990, for the expression “subsection (5)” by section 12(3)(b) Goods and Services Tax Amendment Act 1990 (1990 No 64). The words “or any amount of interest payable under this section” were inserted, as from 3 December 1985, by section 25(1)(c) Goods and Services Tax Amendment Act 1986 (1986 No 43).

In subsection (4) of the original section 46 the expression “subsection (1A)” was substituted, as from 1 August 1990, for the expression “the proviso to subsection (1)” by section 12(3)(c) Goods and Services Tax Amendment Act 1990 (1990 No 64).

Subsection (4A) of the original section 46 was inserted, as from 1 August 1990, by section 12(4) Goods and Services Tax Amendment Act 1990 (1990 No 64).

In subsection (5) of the original section 46 the words “subject to subsections ... this section,” were substituted, as from 1 August 1990, for the words “Subject to the proviso to subsection (1) and to subsections (2) and (3) of this section” (as inserted, as from 3 December 1985, by section 25(1)(d) Goods and Services Tax Amendment Act 1986 (1986 No 43)) by section 12(5)(a) Goods and Services Tax Amendment Act 1990 (1990 No 64). A proviso was omitted, as from 1 August 1990, by section 12(5)(b) of that Act.

Subsection (5A) of the original section 46 was inserted, as from 1 August 1990, by section 12(6) Goods and Services Tax Amendment Act 1990 (1990 No 64).

In subsection (6) of the original section 46 item x was amended from 3 December 1985 by section 25(1)(a) Goods and Services Tax Amendment Act 1986 (1986 No 43).

In subsection (6) of the original section 46 item x was substituted, as from 1 August 1990, for the original item x by section 12(7) Goods and Services Tax Amendment Act 1990 (1990 No 64).

Subsection (6) proviso (as inserted from 3 December 1985 by section 25(2) Goods and Services Tax Amendment Act 1986 (1986 No 43)) was omitted, as from 1 August 1990, by section 12(8) Goods and Services Tax Amendment Act 1990 (1990 No 64).

Subsection (6) item z, the expression “subsection (9)” was substituted, as from 3 December 1985, for the expression “subsection (8)” by section 25(1)(e) Goods and Services Tax Amendment Act 1986 (1986 No 43).

Subsection (6A) of the original section 46 was inserted, as from 1 August 1990, by section 12(9) Goods and Services Tax Amendment Act 1990 (1990 No 64).

In subsection (8) of the original section 46 the reference to the Crown Bank Account was substituted, as from 1 July 1989, for a reference to the Consolidated Account by section 83(7) of the Public Finance Act 1989 (1989 No 44).

Subsection (9) of the original section 46 was amended, as from 1 April 1995, by section YB 1 Income Tax Act 1994 (1994 No 164) by substituting the words “section 120(5) of the Tax Administration Act 1994, and that rate shall have application for the same period as specified for the purposes of section 120 of that Act” for the words “subsection (8) of section 34A of the Income Tax Act 1976, and that rate shall have application for the same period as specified for the purposes of the said section 34A”.

Section 46 was substituted by section 13(1) Goods and Services Tax Amendment Act 1996 (1996 No 59) with application to tax obligations, liabilities, and rights that are to be performed under or arise in relation to supplies made in respect of taxable periods commencing as from 1 April 1997. *See* section 13(2) of that Act as to the transitional provisions. *See* section 1(3) of that Act as to the application of this amendment in relation to other provisions of this Act.

Subsection (6), (that part between paras (b) and (c)), was amended by section 106(1) Taxation (Relief, Refunds and Miscellaneous Provisions) Act 2002 (2002 No 32) by inserting the words “in accordance with that person’s, or their agent’s, request under section 173T of the Tax Administration Act 1994 or otherwise” after the words “set off” with application to goods and services tax paid in excess, being goods and services tax payable on supplies made in taxable periods beginning on or after 1 April 2002.

Subsection (6) was substituted by section 161(1) Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 (2003 No 122) with application to refunds, interest and deductions relating to supplies made in taxable periods beginning on or after 1 April 2002.

Subsection (7) was inserted by section 107(1) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39) with application as from 10 October 2000.

Subsection (7) was substituted by section 161(1) Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 (2003 No 122) with application to refunds, interest and deductions relating to supplies made in taxable periods beginning on or after 1 April 2002.

Subsections (8) and (9) were inserted by section 107(1) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39) with application as from 10 October 2000.

Subsections (8) and (9) were repealed by section 161(1) Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 (2003 No 122) with application to refunds, interest and deductions relating to supplies made in taxable periods beginning on or after 1 April 2002.

**47 Tax paid in excess may be set off against tax payable when assessment re-opened**

In any case where, upon the investigation by the Commissioner of the liability of a registered person for tax over a number of taxable periods,—

- (a) The Commissioner assesses the registered person with tax for any taxable period in respect of which no assessment has been made previously or alters an assessment for any taxable period so as to increase the amount thereof; and
- (b) In respect of any taxable period or taxable periods within that group of taxable periods tax has been paid in excess of the amount properly payable,—

the Commissioner may, in the Commissioner's discretion and to the extent that in the opinion of the Commissioner is equitable, allow any amount so paid in excess to be credited towards satisfying the registered person's liability to pay any tax payable for any taxable period or taxable periods, notwithstanding that the time limited for the making of a refund of any tax so paid in excess may have expired.

Section 47 was amended by section 14 Goods and Services Tax Amendment Act 1996 (1996 No 59) by substituting the words "credited towards satisfying the registered person's liability to pay" for the words "deducted from or set off against" with application to tax obligations, liabilities, and rights that are to be performed under or arise in relation to supplies made in respect of taxable periods commencing as from 1 April 1997. *See* section 1(3) of that Act as to the application of this amendment in relation to other provisions of this Act.

**48 Power of Commissioner in respect of small amounts**

*[Repealed]*

Section 48 was repealed by section 15 Goods and Services Tax Amendment Act 1996 (1996 No 59) with application to tax obligations, liabilities, and rights that are to be performed under or arise in relation to supplies made in respect of taxable periods commencing as from 1 April 1997. *See* section 1(3) of that Act as to the application of this amendment in relation to other provisions of this Act.

**48A Relief from tax where new start grant made**

- (1) In this section, **new start grant** has the meaning given to the term by section YA 1 of the Income Tax Act 2007.
- (2) Where, in respect of a taxable activity, a registered person—
  - (a) Has received a new start grant; and

- (b) Has furnished all returns required under this Act; and
  - (c) Is liable for tax in respect of—
    - (i) The new start grant; or
    - (ii) The taxable activity, including its ending, whether premature or otherwise,—the Commissioner may remit, in whole or in part, any amount of tax payable by that registered person that relates to that new start grant and that taxable activity.
- (3) Where, in relation to a taxable activity in respect of which a person has received a new start grant,—
- (a) Any registered person is a person or entity associated with the person who received the new start grant within the meaning of section CX 48(4) or EW 46(4) of the Income Tax Act 2007; and
  - (b) That registered person is liable for tax in respect of—
    - (i) The taxable activity, including its ending, whether premature or otherwise; or
    - (ii) Land on which the taxable activity was carried on (including its sale or other disposal); and
  - (c) That registered person has furnished all returns required under this Act,—
- the Commissioner may, having regard to the matters referred to in section CX 48(4) and or EW 46(4) and (5) of the Income Tax Act 2007, remit in whole or in part any amount of tax payable by that registered person that relates to that taxable activity on that land.

Section 48A was inserted, as from 4 November 1988, by section 9(1) Goods and Services Tax Amendment Act 1989 (1989 No 8).

The heading to section 48A was amended, as from 1 February 2004, by section 156(1) Taxation (Venture Capital and Miscellaneous Provisions) Act 2004 (2004 No 111) by omitting the words “in respect of drought relief” with application as from the 2003–04 income year.

Subsection (1) was substituted, as from 1 February 2004, by section 156(2) Taxation (Venture Capital and Miscellaneous Provisions) Act 2004 (2004 No 111) with application as from the 2003–04 income year.

Section 48A(1): amended, on 1 April 2008, by section ZA 2(1) of the Income Tax Act 2007 (2007 No 97).

Subsection (1) was amended, as from 4 November 1988, by section 13(1) Goods and Services Tax Amendment Act (No 2) 1989 (1989 No 152) by inserting the words “or, as the case may be, extreme rainfall relief”.

Subsection (2) was amended, as from 4 November 1988, by section 13(2) Goods and Services Tax Amendment Act (No 2) 1989 (1989 No 152) by substituting the words “may remit, in whole or in part,” for the words “shall remit”.

Subsection (2)(c)(ii) was amended by section 108(1) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39) by substituting the words “, including its ending, whether premature or otherwise” for the words “(including its termination)”, with application as from 10 October 2000.

Section 48A(3): amended, on 1 April 2008, by section 278(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Subsection (3) was amended, as from 1 April 1995, by section YB 1 Income Tax Act 1994 (1994 No 164) by substituting the words “section EZ 9(3) of the Income Tax Act 1994” for the words “section 64FB(3) of the Income Tax Act 1976”.

Subsection (3) was amended, as from 1 February 2004, by section 156(3) Taxation (Venture Capital and Miscellaneous Provisions) Act 2004 (2004 No 111) by substituting the words “section EZ 9(3) and (4)” for the words “section EZ 9(3)” with application as from the 2003–04 income year.

Subsection (3) was amended, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35) by substituting “section CX 41B(4) and (5) or section EW 47B(4) and (5) of the Income Tax Act 2004” for “section EZ 9(3) and (4) of the Income Tax Act 1994”.

Section 48A(3)(a): amended, on 1 April 2008, by section 278(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Subsection (3)(b)(i) was amended by section 108(1) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39) by substituting the words “, including its ending, whether premature or otherwise” for the words “(including its termination)”, with application as from 10 October 2000.

## **49 Relief from additional tax**

*[Repealed]*

Section 49 was repealed by section 16 Goods and Services Tax Amendment Act 1996 (1996 No 59) with application to tax obligations, liabilities, and rights that are to be performed under or arise in relation to supplies made in respect of taxable periods commencing as from 1 April 1997. *See* section 1(3) of that Act as to the application of this amendment in relation to other provisions of this Act.

## **50 Appropriation of refunds**

*[Repealed]*

Section 50 was amended, as from 1 October 1996, by section 17 Goods and Services Tax Amendment Act 1996 (1996 No 59) by inserting, after the words “this Act”, the words “or under the Tax Administration Act 1994”. *See* section 1(3) of that Act as to the application of this amendment in relation to other provisions of this Act.

Section 50 was repealed, as from 21 December 2004, by section 157 Taxation (Venture Capital and Miscellaneous Provisions) Act 2004 (2004 No 111).

## **Part 8**

### **Registration**

#### **51 Persons making supplies in course of taxable activity to be registered**

(1) Subject to this Act, every person who, on or after the 1st day of October 1986, carries on any taxable activity and is not registered, becomes liable to be registered—

(a) At the end of any month where the total value of supplies made in New Zealand in that month and the 11 months immediately preceding that month in the course of carrying on all taxable activities has exceeded \$40,000 (or such larger amount as the Governor-General may, from time to time, by Order in Council declare):

Provided that a person does not become liable to be registered by virtue of this paragraph where the Commissioner is satisfied that the value of those supplies in the period of 12 months beginning on the day after the last day of the period referred to in the said paragraph will not exceed that amount:

(b) At the commencement of any month where there are reasonable grounds for believing that the total value of the supplies to be made in New Zealand in that month and the 11 months immediately following that month will exceed the amount specified in paragraph (a) of this section:

Provided that any such person shall not become liable where the Commissioner is satisfied that that value will exceed that amount in that period solely as a consequence of—

- (c) any ending of, including a premature ending of, or any substantial and permanent reduction in the size or scale of, any taxable activity carried on by that person; or
- (d) The replacement of any plant or other capital asset used in any taxable activity carried on by that person; or
- (e) the supply, to persons who are non-residents but are physically present in New Zealand, of telecommunications services that are treated as being supplied in New Zealand under sections 8(6) and 8A.

- (2) Every person who, by virtue of subsection (1) of this section, becomes liable to be registered shall apply to the Commissioner in the prescribed form for registration under this Act, within 21 days of becoming so liable, and provide the Commissioner with such further particulars as the Commissioner may require for the purpose of registering that person.
- (3) Notwithstanding subsections (1) and (2) of this section, every person who satisfies the Commissioner that, on or after the 1st day of October 1986,—
- (a) That person is carrying on any taxable activity; or
  - (b) That person intends to carry on any taxable activity from a specified date,—
- may apply to the Commissioner in the prescribed form for registration under this Act, and provide the Commissioner with such further particulars as the Commissioner may require for the purpose of registering that person.
- (4) Where any person has—
- (a) Made application for registration pursuant to subsection (2) or subsection (3) of this section, and the Commissioner is satisfied that that person is eligible to be registered under this Act, that person shall be a registered person for the purposes of this Act with effect from such date as the Commissioner may determine; or
  - (b) Not made application for registration pursuant to subsection (2) of this section, and the Commissioner is satisfied that that person is liable to be registered under this Act, that person shall be a registered person for the purposes of this Act with effect from the date on which that person first became liable to be registered under this Act:
- Provided that the Commissioner may, having regard to the circumstances of the case, determine that person to be a registered person from such later date as the Commissioner considers equitable.
- (5) Notwithstanding anything in this Act, where any taxable activity is carried on by any non-profit body in branches or divisions, that non-profit body may apply in writing to the Commissioner for any such branch or division to be a separate person for the purposes of this section, and if each such branch or

division maintains an independent system of accounting and can be separately identified by reference to the nature of the activities carried on or the location of that branch or division, each such branch or division shall be deemed to be a separate person, and not a part of the non-profit body, and, where any such branch or division is a separate person pursuant to this subsection, any taxable activity carried on by that branch or division shall, to that extent, be deemed not to be carried on by the non-profit body first mentioned in this subsection.

- (6) The provisions of this Act relating to the determination of the value of any supply of goods and services shall apply for the purposes of this section, with the modification that no regard shall be had to any tax charged in respect of any such supply.
- (7) An application for registration under this Act purporting to be made by or on behalf of any person shall for all purposes be deemed to have been made by that person or by that person's authority, as the case may be, unless the contrary is proved.

Subsection (1)(a) and (b) were amended, as from 3 December 1985, by section 26(a) and (b) Goods and Services Tax Amendment Act 1986 (1986 No 43) by inserting the words "in New Zealand".

Subsection (1)(a) was amended, as from 8 August 1990, by section 9(1) Goods and Services Tax Amendment Act (No 2) 1990 (1990 No 93) by substituting the expression "\$30,000" for the expression "\$24,000".

Subsection (1)(a) was amended by section 109(1) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39) by substituting the expression "\$40,000" for the expression "\$30,000", with application as from 1 October 2000.

Subsection (1)(c) was amended by section 109(2) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39) by substituting the words "any ending of, including a premature ending of" for the words "Any cessation of", with application as from 10 October 2000.

Subsection (1)(d) was amended, as from 1 July 2003, by section 160 Taxation (Maori Organisations, Taxpayer Compliance and Miscellaneous Provisions) Act 2003 (2003 No 5) by substituting the words "person; or" for the expression "person."

Subsection (1)(e) was inserted, as from 1 July 2003, by section 160 Taxation (Maori Organisations, Taxpayer Compliance and Miscellaneous Provisions) Act 2003 (2003 No 5).

Subsection (1)(e) was amended, as from 25 November 2003, by section 162 Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 (2003 No 122) by substituting the words "non-residents" for the words "not resident in New Zealand".

Subsection (4)(b) was amended, as from 24 March 1988, by section 15(1) Goods and Services Tax Amendment Act 1988 (1988 No 7) by omitting the words “21 days after the date”.

Subsection (7) was inserted, as from 19 December 1989, by section 14 Goods and Services Tax Amendment Act (No 2) 1989 (1989 No 152).

### **51B Persons treated as registered**

- (1) For the purposes of Parts 3 and 6, and of Part 9 of the Tax Administration Act 1994, the following are treated as registered persons:
  - (a) a person who is not otherwise a registered person but who supplies goods or services, representing that tax is charged on the supply:
  - (b) if goods are treated by section 5(2) as being supplied by a person—
    - (i) the person selling the goods, if subparagraph (ii) does not apply; or
    - (ii) the person whose goods are sold, if the person supplies a written statement under section 5(2)(a) to the person selling the goods and the Commissioner considers that the written statement is incorrect:
  - (c) a person whose registration has been cancelled under section 52(5) with effect from the original date of registration.
- (2) If a person referred to in subsection (1) represents that tax is being charged on a supply that they make in a taxable period, the person is liable to pay the amount of the tax.
- (3) If a person is treated by subsection (1)(c) as being a registered person, the person is treated as being registered from the original date of registration to the date when the Commissioner cancels the registration.

Section 51B was inserted, as from 21 December 2004, by section 158 Taxation (Venture Capital and Miscellaneous Provisions) Act 2004 (2004 No 111).

### **52 Cancellation of registration**

- (1) Subject to this Act, every registered person who carries on any taxable activity shall cease to be liable to be registered where at any time the Commissioner is satisfied that the value of that person’s taxable supplies in the period of 12 months

then beginning will be not more than the amount specified for the purposes of section 51(1) of this Act.

- (2) Every person who, by virtue of subsection (1) of this section, ceases to be liable to be registered may request the Commissioner by notice in writing or by telephone to cancel that person's registration, and if the Commissioner is at any time satisfied, as mentioned in subsection (1) of this section, the Commissioner shall cancel that person's registration with effect from the last day of the taxable period during which the Commissioner was so satisfied, or from such other date as may be determined by the Commissioner, and shall notify that person of the date on which the cancellation of the registration takes effect.
- (3) Every registered person who ceases to carry on all taxable activities shall inform the Commissioner of that fact by notice in writing or by telephone within 21 days of the date of cessation and the Commissioner shall cancel the registration of any such person with effect from the last day of the taxable period during which all such taxable activities ceased, or from such other date as may be determined by the Commissioner:  
Provided that the Commissioner shall not at any time cancel the registration of any such registered person if there are reasonable grounds for believing that the registered person will carry on any taxable activity at any time within 12 months from that date of cessation.
- (4) Any information provided by a registered person to the Commissioner under subsection (3) must include the date on which the person ceased to carry on all taxable activities and whether or not the person intends to carry on any taxable activity within 12 months from that date.
- (5) Where the Commissioner is satisfied that a registered person is not carrying on a taxable activity the Commissioner may cancel that person's registration with effect from the last day of the taxable period during which the Commissioner was so satisfied, or from such other date as may be determined by the Commissioner, and shall notify that person of the date on which the cancellation of the registration takes effect.

- (5A) Any date determined by the Commissioner for the cancellation of registration under subsection (5) of this section may be retrospective to a date not earlier than—
- (a) The last day of the taxable period during which taxable activity by the person ceased; or
  - (b) The date on which the person was registered under this Act, if the Commissioner is satisfied that the person did not, from that date, carry on any taxable activity.

(6)

- (7) In subsections (5) and (5A), for a person who is a non-resident, a taxable activity means a taxable activity carried on in New Zealand.

Subsection (1) was amended, as from 22 June 1987, by section 9 Goods and Services Tax Amendment Act 1987 (1987 No 103) by omitting the words “, if that person has been registered for the whole of the 2 years then ending”.

Subsection (2) was amended, as from 25 November 2003, by section 163(1) Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 (2003 No 122) by substituting the words “by notice in writing or by telephone” for the words “in writing”.

Subsection (3) was amended, as from 3 December 1985, by section 27(1) Goods and Services Tax Amendment Act 1986 (1986 No 43) by inserting the words “with effect from the last day of the taxable period during which all such taxable activities ceased, or from such other date as may be determined by the Commissioner”.

Subsection (3) was amended, as from 25 November 2003, by section 163(2) Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 (2003 No 122) by substituting the words “inform the Commissioner of that fact by notice in writing or by telephone” for the words “notify the Commissioner of that fact”.

Subsection (4) was substituted, as from 25 November 2003, by section 163(3) Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 (2003 No 122).

Subsection (5) was substituted, as from 4 November 1988, by section 13 Goods and Services Tax Amendment Act 1990 (1990 No 64).

Subsection (5A) was inserted, as from 4 November 1988, by section 13 Goods and Services Tax Amendment Act 1990 (1990 No 64).

Subsection (6) was repealed, as from 3 December 1985, by section 27(2) Goods and Services Tax Amendment Act 1986 (1986 No 43).

Subsection (7) was inserted, as from 21 June 2005, by section 160(1) Taxation (Base Maintenance and Miscellaneous Provisions) Act 2005 (2005 No 79) with application to a person who becomes registered under this Act as from 21 June 2005.

**53 Registered person to notify change of status**

- (1) Subject to this Act, every registered person shall within 21 days notify the Commissioner in writing of—
- (a) Any change in the name, address, constitution, or nature of the principal taxable activity or activities of that registered person:
  - (b) Any change of address from which, or the name in which, any taxable activity is carried on by that registered person:
  - (c) Any change whereby that registered person, if in category C, ceases to satisfy the conditions of section 15(2) of this Act:
  - (ca) Any change whereby that registered person now satisfies the conditions of either subparagraph (i) or subparagraph (ii) of subsection (4)(b) of section 15 of this Act:
  - (cb) Any change whereby that registered person ceases to satisfy the conditions of section 19A of this Act, where the Commissioner has made a direction in respect of that registered person under that section:
  - (d) Any change where that registered person, being a member of a group within the meaning of section 55 of this Act, ceases to be eligible to be a member of that group:
- Provided that paragraphs (a) to (cb) of this section shall not apply to the notification of any changes in the ownership of any company.
- (2) Any registered person who wishes to change, or to adopt, any trading name used or to be used by the registered person for the purpose of issuing or creating tax invoices and credit and debit notes under this Act, shall notify the Commissioner in writing of—
- (a) The new trading name; and
  - (b) The date from which that new trading name is to be used by the person for the purposes of this Act.

Subsection (1)(c), (ca), and (cb) were substituted, as from 17 March 1988, for the original paragraph (c) (as amended from 3 December 1985 by section 28(a) and (b) Goods and Services Tax Amendment Act 1986 (1986 No 43)) by section 2(4) Goods and Services Tax Amendment Act (No 2) 1988 (1988 No 15).

Section 53(1)(c): amended, on 1 October 2007, by section 294 of the Taxation (Depreciation, Payment Dates Alignment, FBT, and Miscellaneous Provisions) Act 2006 (2006 No 3).

Subsection (1)(cb) was amended, as from 1 April 1991, by section 5(6) Goods and Services Tax Amendment Act 1991 (1991 No 11) by substituting the expression “section 19A” for the expression “section 19(2)”.

In the proviso to subsection (1), the expression “(cb)” was substituted, as from 17 March 1988, for the expression “(c)” by section 2(5) Goods and Services Tax Amendment Act (No 2) 1988 (1988 No 15).

Subsection (2) was inserted, as from 13 March 1992, by section 9 Goods and Services Tax Amendment Act 1992 (1992 No 2).

#### **54 Liabilities not affected by ceasing to be registered person**

The obligations and liabilities under this Act of any person in respect of anything done, or omitted to be done, by that person while that person is a registered person shall not be affected by the fact that that person ceases to be a registered person, or by the fact that, being a registered person, the Commissioner cancels that person’s registration.

### **Part 9 Special cases**

#### **55 Group of companies**

- (1) For the purposes of this Act, 2 or more companies (the **companies**) are eligible to be a group of companies at a time if,—
- (a) at the time and under section IC 3 of the Income Tax Act 2007, the companies—
    - (i) are a group of companies;
    - (ii) are part of a group of companies;
    - (iii) would be a group of companies or part of a group of companies but for 1 or more of the companies being a portfolio tax rate entity; and
  - (b) the companies,—
    - (i) at the time, are each a registered person;
    - (ii) in a 12-month period that includes the time, make a total value of taxable supplies to persons other than the companies that is at least 75% of the total value of all supplies made in that period by the companies to persons other than the companies.
- (2) Where 2 or more companies apply to be members of a group of companies for the purposes of this section, and the Commissioner is satisfied that they are eligible to be members of

- a group of companies pursuant to subsection (1) of this section, they shall be members of a group of companies from the beginning of such taxable period as is determined by the Commissioner.
- (3) In any application made under subsection (2) of this section by 2 or more companies—
- (a) one of the companies shall be nominated to be the representative member; and
  - (b) the company nominated under paragraph (a) must be a registered person.
- (4) Where any companies are members of a group of companies, the representative member nominated under subsection (3) of this section may apply to the Commissioner for—
- (a) A further company eligible to be a member of that group of companies to be a member of that group of companies; or
  - (b) One of the members of that group of companies to be excluded from that group of companies; or
  - (c) Another member of the group of companies to be nominated as the representative member, and the member nominated under subsection (3) of this section to no longer be the representative member; or
  - (d) That group of companies to no longer be a group of companies for the purposes of this section,—
- and the Commissioner shall grant the application from the beginning of such taxable period as is determined by the Commissioner.
- (4AA)
- (4A) The appointment of a **specified agent**, as defined in section 58(1), does not affect the membership of a group of companies.
- (5) Where any member of a group of companies has ceased to be eligible to be a member of that group, and—
- (a) That member or the representative member of that group of companies notifies the Commissioner of that cessation pursuant to section 53(1)(d) of this Act; or
  - (b) The Commissioner is otherwise satisfied that any member of a group of companies has ceased to be so eligible,—

the Commissioner shall, by notice in writing given to that member or that representative member, terminate that membership from such date as may be specified in the notice.

- (6) For the purposes of this Act, any notice served in accordance with this Act, which is addressed to the representative member of any group of companies shall be deemed to be served on that representative member and on all members of that group of companies.
- (7) Subject to subsection (7B), where any companies are a group of companies for the purposes of this section,—
- (a) Any taxable activity carried on by a member of the group shall be deemed to be carried on by the representative member and not to be carried on by any other member of the group; and
  - (b) All members of the group shall have the same taxable period pursuant to sections 15 to 15E of this Act and the same accounting basis pursuant to section 19 or section 19A of this Act; and
  - (c) Subject to paragraphs (db) and (dc) of this subsection, any taxable supply of goods and services by a member of the group to another member of the group may be disregarded; and
  - (d) Any other taxable supply of goods and services by a member of the group shall be deemed to be a taxable supply by the representative member; and
  - (da) Any supply of goods and services, other than a taxable supply, made by a member of the group, shall be deemed to be made by the representative member; and
  - (dab) subject to paragraph (c), any supply of goods and services to a member of the group is a supply to the representative member; and
  - (db) To the extent that goods and services acquired or produced or applied by any member of a group for the principal purpose of making taxable supplies are applied by the representative member of that group for a purpose other than that of making taxable supplies, that acquisition or production or application of those goods and services shall, for the purposes of section 21(1) of this

Act, be deemed to have been made by the representative member of that group; and

- (dc) To the extent that goods and services acquired or produced on or after the 1st day of October 1986 by any member of a group other than for the principal purpose of making taxable supplies are applied by the representative member of that group for a purpose of making taxable supplies, that acquisition or production of those goods and services shall, for the purposes of section 21E, be deemed to have been made by the representative member of that group; and
- (e) Any input tax paid or payable by a member of the group shall be deemed to be paid or payable by the representative member; and
- (f) Any obligation on any member of the group, other than the representative member, pursuant to section 16 of this Act, shall be disregarded:

Provided that—

- (g) All members of the group shall remain liable jointly and severally for any tax payable by the representative member; and
  - (h) The provisions of section 24, section 75, and Part 8 of this Act shall continue to apply to all such members of the group.
- (7B) Subsection (7), apart from paragraphs (b) and (e) to (h), does not apply to a group of companies in relation to a supply of services that is treated by section 8(4B) as being made in New Zealand.
- (8) Where the Commissioner is satisfied in relation to 2 or more registered persons (not each being companies) that—
- (a) One of them controls each of the others; or
  - (b) One person controls all of them; or
  - (c) Two or more persons carrying on a taxable activity in partnership control all of them,—
- the Commissioner may deem those registered persons to be members of a group, and subsections (2) to (7) of this section shall apply as if every reference in the said subsections to a group of companies were a reference to that group, and as if

every reference in the said subsections (2) to (7) to companies were a reference to the members of the group.

Section 55(1): substituted (with effect from 1 October 2007), on 19 December 2007, by section 279(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section 55(1)(a): amended, on 1 April 2008, by section 279(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section 55(1)(a): amended, on 1 April 2008, by section ZA 2(1) of the Income Tax Act 2007 (2007 No 97).

Subsection (1) proviso was inserted from 3 December 1985 by section 29(1) Goods and Services Tax Amendment Act 1986 (1986 No 43).

Subsection (1) was substituted, as from 1 April 1992, by section 65(1) Income Tax Amendment Act (No 2) 1992 (1992 No 14)). *See* section 65(2) of that Act as to the application of that section with respect to supplies made on or after the 1 April 1992 and, for this purpose only, section 25 of this Act shall be deemed to apply also with effect from such date.

Subsection (1) was amended by section 10(1) Goods and Services Tax Amendment Act (No 2) 1992 (1992 No 116) by omitting the words “and, are”, with application with respect to supplies made on or after 1 April 1992.

Subsection (1) was amended, as from 1 April 1995, by section YB 1 Income Tax Act 1994 (1994 No 164) by substituting the words “section IG 1 of the Income Tax Act 1994” for the words “section 191 of the Income Tax Act 1976”.

Subsection (1) was substituted, as from 1 October 2001, by section 218(1) Taxation (Savings Investment and Miscellaneous Provisions) Act 2006 (2006 No 81).

Subsection (1) was amended, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35) and by section 218(2) Taxation (Savings Investment and Miscellaneous Provisions) Act 2006 (2006 No 81) by substituting the words “Income Tax Act 2004” for the words “Income Tax Act 1994”.

Subsection (3) was substituted, as from 1 October 2001, by section 218(3) Taxation (Savings Investment and Miscellaneous Provisions) Act 2006 (2006 No 81).

Subsection (4)(d) was amended, as from 1 October 2001, by section 218(4)(a) Taxation (Savings Investment and Miscellaneous Provisions) Act 2006 (2006 No 81) by substituting the expression “section.” for the expression “section,—”.

Subsection (4)(d) was amended, as from 18 December 2006, by section 218(6)(a) Taxation (Savings Investment and Miscellaneous Provisions) Act 2006 (2006 No 81) by substituting the expression “section,—” for the expression “section.”

Subsection (4) was amended, as from 1 October 2001, by section 218(4)(b) Taxation (Savings Investment and Miscellaneous Provisions) Act 2006 (2006 No 81) by omitting the words after para (d).

Subsection (4) was amended, as from 18 December 2006, by section 218(6)(b) Taxation (Savings Investment and Miscellaneous Provisions) Act 2006 (2006 No 81) by inserting the words “and the Commissioner shall grant

the application from the beginning of such taxable period as is determined by the Commissioner.” after para (d).

Subsection (4AA) was inserted, as from 1 October 2001, by section 218(5) Taxation (Savings Investment and Miscellaneous Provisions) Act 2006 (2006 No 81).

Subsection (4AA) was repealed, as from 18 December 2006, by section 218(7) Taxation (Savings Investment and Miscellaneous Provisions) Act 2006 (2006 No 81).

Subsection (4A) was inserted by section 110(1) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39) with application as from 10 October 2000.

Subsection (5)(a) was substituted, as from 1 April 1997, by section 115 Taxation (Remedial Provisions) Act 1997 (1997 No 74).

Subsection (7) was amended, as from 1 January 2005, by section 164(1) Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 (2003 No 122) by substituting the words “Subject to subsection (7B), where any companies” for the word “Where any companies”. *See* clause 2 Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act Commencement Order 2004 (SR 2004/226).

Section 55(7)(b): amended, on 1 October 2007, by section 295 of the Taxation (Depreciation, Payment Dates Alignment, FBT, and Miscellaneous Provisions) Act 2006 (2006 No 3).

Subsection (7)(b) was amended, as from 17 March 1988, by section 2(6) Goods and Services Tax Amendment Act (No 2) 1988 (1988 No 15) by inserting the words “or section 15A”.

Subsection (7)(b) was amended, as from 1 April 1991, by section 5(7) Goods and Services Tax Amendment Act 1991 (1991 No 11) by inserting the words “or section 19A”.

Subsection (7)(c) was substituted, as from 22 March 1989, for the original paragraph (c) (as amended from 3 December 1985 by section 29(2) Goods and Services Tax Amendment Act 1986 (1986 No 43)) by section 10(1) Goods and Services Tax Amendment Act 1989 (1989 No 8).

Subsection (7)(d) was amended, as from 1 January 2005, by section 164(2) Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 (2003 No 122) by substituting the word “by” for the words “by or to” in both places where they occur. *See* clause 2 Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act Commencement Order 2004 (SR 2004/226).

Subsection (7)(da) was inserted, as from 3 December 1985, by section 29(3) Goods and Services Act Amendment Act 1986 (1986 No 43).

Subsection (7)(dab) was inserted, as from 1 January 2005, by section 164(3) Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 (2003 No 122). *See* clause 2 Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act Commencement Order 2004 (SR 2004/226).

Subsection (7)(db) was inserted, as from 22 March 1989, by section 10(2) Goods and Services Tax Amendment Act 1989 (1989 No 8).

Subsection (7)(db) was amended, as from 25 November 2003, by section 164(4)(a) Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 (2003 No 122) by inserting the words “acquired or produced or” before the words “applied by any member”.

Subsection (7)(db) was amended, as from 25 November 2003, by section 164(4)(b) Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 (2003 No 122) by omitting the word “subsequently”.

Subsection (7)(db) was amended, as from 25 November 2003, by section 164(4)(c) Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 (2003 No 122) by substituting the words “acquisition or production or” for the word “first-mentioned”.

Subsection (7)(dc) was inserted, as from 22 March 1989, by section 10(2) Goods and Services Tax Amendment Act 1989 (1989 No 8).

Subsection (7)(dc) was amended by section 110(2) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39) by substituting the expression “section 21E” for the expression “section 21(5) of this Act” with application as from 10 October 2000.

Subsection (7)(dc) was amended, as from 25 November 2003, by section 164(5) Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 (2003 No 122) by omitting the word “subsequently”.

Subsection (7B) was inserted, as from 1 January 2005, by section 164(6) Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 (2003 No 122). *See* clause 2 Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act Commencement Order 2004 (SR 2004/226).

Subsection (8) was amended, as from 3 December 1985, by section 29(4) Goods and Services Tax Amendment Act 1986 (1986 No 43) by inserting the word “each”.

Subsection (8)(c) was amended, as from 1 August 1990, by section 14 Goods and Services Tax Amendment Act 1990 (1990 No 64) by substituting the word “persons” for the word “individuals”.

Subsection (8) was amended, as from 1 July 1994, by section 7 Goods and Services Tax Amendment Act 1994 (1994 No 77) by omitting the words “registered under the Companies Act 1955”.

## **56 Branches and divisions**

- (1) Where a taxable activity is carried on by any registered person in branches or divisions, that registered person may apply in writing to the Commissioner for any such branch or division to be registered as a separate registered person for the purposes of this Act.
- (2) The Commissioner shall, upon application made pursuant to subsection (1) of this section, register any branch or division as a separate registered person if each such branch or division maintains an independent system of accounting and can be separately identified by reference to the nature of the activities

carried on or the location of the branch or division, and where any such branch or division is so separately registered, any taxable activity carried on by that branch or division shall, to that extent, be deemed not to be carried on by the registered person first mentioned in subsection (1) of this section.

- (3) The registered person first mentioned in subsection (1) of this section may, at any time, apply in writing to the Commissioner for any branch or division separately registered under subsection (2) of this section to cease to be so registered, and the Commissioner shall cancel that separate registration with effect from the last day of the taxable period of the branch or division during which that application was made, and any taxable activity carried on by that branch or division shall thereafter, to that extent, be deemed to be carried on by the registered person first mentioned in subsection (1) of this section.
- (4) The Commissioner shall cancel the separate registration of any branch or division on the cancellation of the registration of the registered person first mentioned in subsection (1) of this section.
- (5) Where any branch or division separately registered pursuant to this section makes default in doing anything required to be done under this Act, the liability for the doing of that thing shall revert to the registered person first mentioned in subsection (1) of this section.
- (6) Notwithstanding the forgoing provisions of this section, for the purposes of sections 15 to 15E, 19, and 19A of this Act this section shall be deemed not to have applied, and any placement or direction made pursuant to the said sections 15 to 15E, 19, and 19A in respect of the registered person first mentioned in subsection (1) of this section shall, for the purposes of this Act, apply equally to each branch or division separately registered pursuant to this section.

Section 56(6): amended, on 1 October 2007, by section 296(1) of the Taxation (Depreciation, Payment Dates Alignment, FBT, and Miscellaneous Provisions) Act 2006 (2006 No 3).

Subsection (6) was amended, as from 17 March 1988, by section 2(7)(b) Goods and Services Tax Amendment Act (No 2) 1988 (1988 No 15) by substituting the word “placement” for the word “determination”.

In subsection (6) the expression “sections 15, 15A, 19, and 19A” was substituted, as from 1 April 1991, in 2 places for the expression “sections 15, 15A, and

19” (as amended from 17 March 1988 by section 2(7)(a) Goods and Services Tax Amendment Act (No 2) 1988 (1988 No 15) by inserting the expression “, 15A,” in both places) by section 5(8) Goods and Services Tax Amendment Act 1991 (1991 No 11).

### **56B Branches and divisions in relation to certain imported services**

- (1) This section applies to a supply of services that is treated by section 8(4B) as being made in New Zealand.
- (2) If a person carries on activities both inside and outside New Zealand through branches or divisions—
  - (a) each branch or division is treated as being a separate person; and
  - (b) a branch or division inside New Zealand is treated as being a resident; and
  - (c) a branch or division outside New Zealand is treated as being a non-resident; and
  - (d) an activity earned on by a branch or division is treated as being carried on separately by the branch or division.
- (3) For the purpose of this section, a head office of a company is a branch or division of the company.
- (4) This section applies whether or not a branch or division of the person is registered under section 56.

Section 56B was inserted, as from 1 January 2005, by section 165 Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 (2003 No 122). See clause 2 Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act Commencement Order 2004 (SR 2004/226).

### **57 Unincorporated bodies**

- (1)
- (2) Where an unincorporated body that carries on any taxable activity is registered pursuant to this Act,—
  - (a) The members of that body shall not themselves be registered or liable to be registered under this Act in relation to the carrying on of that taxable activity; and
  - (b) Any supply of goods and services made in the course of carrying on that taxable activity shall be deemed for the purposes of this Act to be supplied by that body, and shall be deemed not to be made by any member of that body; and

- (c) Any supply of goods and services to, or acquisition of goods by, any member of that body acting in the capacity as a member of that body and in the course of carrying on that taxable activity, not being a supply to which paragraph (b) of this subsection applies, shall be deemed for the purposes of this Act to be supplied to or acquired by that body, and shall be deemed not to be supplied to or acquired by that member; and
  - (d) That registration shall be in the name of the body, or where that body is the trustees of a trust, in the name of the trust; and
  - (e) Subject to subsections (3) to (3B), any change of members of that body shall have no effect for the purposes of this Act.
- (3) Despite this section, a member is jointly and severally liable with other members for all tax payable by the unincorporated body during the taxable periods, or part of taxable periods as the case may be, the person is a member of the body, even if the person is no longer a member of the body.
- (3A) When an individual member dies, the member's estate is severally liable in due course of administration for tax payable by the unincorporated body to the extent that it remains unpaid, whether or not the individual was a member on the date of their death.
- (3B) For the purpose of subsections (3) and (3A), a member does not stop being a member of the unincorporated body until the date on which the Commissioner receives written notice of a change in membership of the body.
- (4) For the purposes of this Act, any notice served in accordance with this Act which is addressed to an unincorporated body by the name in which it is registered pursuant to this Act, shall be deemed to be served on that body and on all members of that body.
- (5) Subject to subsection (6) of this section, where anything is required to be done pursuant to this Act by or on behalf of an

unincorporated body, it shall be the joint and several liability of all the members to do any such thing:

Provided that any such thing done by one member shall be sufficient compliance with any such requirement.

- (6) Notwithstanding anything in this section, but subject to subsections (3) to (3B), where anything is required to be done pursuant to this Act by or on behalf of an unincorporated body, not being a partnership, joint venture, or trustees of a trust, the affairs of which are managed by its members or a committee or committees of its members, it shall be the joint and several responsibility of—

- (a) Every member holding office as president, chairman, treasurer, secretary, or any similar office; or
- (b) In default of any such member, every member holding office as a member of a committee:

Provided that if it is done by any official or committee member, referred to in paragraph (a) or paragraph (b) of this subsection, that shall be sufficient compliance with any such requirement.

Subsection (1) was repealed by section 111(1) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39) with application on 10 October 2000.

Subsection (2) was amended by section 111(2) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39) by substituting the words “an unincorporated body” for the words “a body” with application as from 10 October 2000.

Subsection (2)(e) was amended by section 111(3) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39) by substituting the words “subsections (3) to (3B)” for the words “subsection (3) of this section” with application as from 10 October 2000.

Subsections (3) was substituted, and subsections (3A) and (3b) were inserted, by section 111(4) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39) with application as from 10 October 2000.

Subsection (4) was amended by section 111(5) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39) by substituting the words “an unincorporated body” for the words “a body” with application as from 10 October 2000.

Subsection (5) was amended by section 111(6) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39) by substituting the words “an unincorporated body” for the words “any body” with application as from 10 October 2000.

Subsection (6) was amended, as from 3 December 1985, by section 30 Goods and Services Tax Amendment Act 1986 (1986 No 43) by inserting the words “but subject to subsection (3) of this section”.

Subsection (6) was amended by section 111(6) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39) by substituting the words “an unincorporated body” for the words “any body” with application as from 10 October 2000.

Subsection (6) was amended by section 111(6) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39) by substituting the expression “subsections (3) to (3B)” for the expression “subsection (3) of this section” with application as from 10 October 2000.

## **58 Personal representative, liquidator, receiver, etc**

(1) In this section and sections 46 and 55—

**Agency period** means the period beginning on the date on which a person becomes entitled to act as a specified agent carrying on a taxable activity in relation to an incapacitated person and ending on the earlier of—

- (a) The date on which some person other than the incapacitated person or the specified agent is registered in respect of the taxable activity; or
- (b) the date on which there is no longer a person acting as a specified agent in relation to the incapacitated person.

**Incapacitated person** means a registered person who dies, or goes into liquidation or receivership, or becomes bankrupt or incapacitated

**Specified agent** means a person carrying on any taxable activity in a capacity as personal representative, liquidator, or receiver of an incapacitated person, or otherwise as agent for or on behalf of or in the stead of an incapacitated person.

- (1A) Despite sections 5(2) and 60, a person who becomes a specified agent is treated as being a registered person carrying on the taxable activity of the incapacitated person during the agency period, and the incapacitated person is not treated as carrying on the taxable activity during the period.
- (1B) If a person becomes a specified agent and has been appointed to carry on part of the incapacitated person’s taxable activity only, subsection (1A) applies only to the part of the taxable activity the person has been appointed to carry on.
- (1C) Subject to section 46(7), a specified agent may deduct an amount under section 20(3) relating to supplies made before the agency period if the incapacitated person is entitled to, and has not previously deducted, the amount.

- (1D) A specified agent is not personally liable for any liabilities incurred under this Act by the incapacitated person on or before the date the agency period starts.
- (2) Where a mortgagee is in possession of any land or other property previously mortgaged by the mortgagor, being a registered person, the Commissioner may, from the date on which the mortgagee took possession of that land or other property, until such time as the mortgagee ceases to be in possession of that land or other property, deem the mortgagee, in any case where and to the extent that the mortgagee carries on any taxable activity of the mortgagor, to be a registered person.
- (3) Any person who becomes a specified agent, or who as a mortgagee in possession carries on any taxable activity of the mortgagor, shall, within 21 days of becoming a specified agent or commencing that taxable activity of the mortgagor, inform the Commissioner in writing of that fact and of the date of the death or of the liquidation or receivership or bankruptcy or mortgagee taking possession of any land or other property previously mortgaged by the mortgagor, or of the nature of the incapacity and the date on which it began.

Subsection (1) was substituted, as from 14 December 1992, by section 11(1) Goods and Services Tax Amendment Act (No 2) 1992 (1992 No 116).

Subsection (1) was amended by section 112(1)(a) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39) by substituting the words “In this section and sections 46 and 55” for the words “In this section,”, with application as from 10 October 2000.

Subsection (1) agency period: paragraph (b) of this definition was substituted by section 112(1)(b) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39) with application as from 10 October 2000.

Subsection (1A) was inserted, as from 14 December 1992, by section 11(1) Goods and Services Tax Amendment Act (No 2) 1992 (1992 No 116).

Subsection (1A) was substituted, by section 112(2) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39) with application as from 10 October 2000.

Subsections (1B) and (1CB) were inserted, by section 112(2) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39) with application as from 10 October 2000.

Subsection (1C) was amended by section 166(1) Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 (2003 No 122) by substituting the expression “section 46(7)” for the expression “section 46(8)” with application to deductions relating to supplies made in taxable periods beginning on or after 1 April 2002.

Subsection (1D) was inserted, by section 112(2) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39) with application as from 10 October 2000.

Subsection (3) was amended, as from 14 December 1992, by section 11(2) Goods and Services Tax Amendment Act (No 2) 1992 (1992 No 116) by substituting the words “Any person who ... of the mortgagor” for the words “Any person carrying on such taxable activity as aforesaid shall, within 21 days of commencing to do so”.

## **59 Liability of agent of absentee principal for returns and tax**

- (1) For the purposes of this section, the term **absentee** means—
- (a) Any person, not being a company, who is for the time being out of New Zealand;
  - (b) Any company, not being a company incorporated in New Zealand, unless it has a fixed or permanent place in New Zealand relating to the carrying on of any taxable activity in New Zealand in its own name;
  - (c) Any company, not being a company incorporated in New Zealand, which is declared by the Commissioner to be an absentee for the purposes of this Act by notice given to that company or to its agent or attorney in New Zealand, so long as that declaration remains unrevoked.
- (2) Every person who in New Zealand carries on any taxable activity for and on behalf of a principal who is an absentee shall, for the purposes of this Act, be the agent of that principal in respect of that taxable activity so carried on in New Zealand by means of that agent, and the agent shall make returns and be liable for any tax charged or levied under this Act.

## **60 Agents and auctioneers**

- (1) Subject to this section, for the purposes of this Act, where an agent makes a supply of goods and services for and on behalf of any other person who is the principal of that agent, that supply shall be deemed to be made by that principal and not by that agent:

Provided that, where that supply is a taxable supply, that agent, being a registered person, may, notwithstanding anything in this Act, issue a tax invoice or a credit note or a debit note in relation to that supply as if that agent had made a taxable supply, and to the extent that that tax invoice or credit note or

debit note relates to that supply, that principal shall not also issue, as the case may be, a tax invoice or a credit note or a debit note.

- (2) Subject to this section, for the purposes of this Act, where any registered person makes a taxable supply of goods and services to an agent who is acting on behalf of another person who is the principal for the purposes of that supply, that supply shall be deemed to be made to that principal and not to that agent: Provided that that agent may nevertheless request that that agent be issued with a tax invoice and that registered person may issue a tax invoice or a credit note or debit note as if the supply were made to that agent.
- (3) Where a tax invoice or a credit note or debit note in relation to a supply has been issued—
- (a) By an agent pursuant to subsection (1) of this section; or
  - (b) To an agent pursuant to subsection (2) of this section,—the agent shall maintain sufficient records to enable the name and address and registration number (if any) of the principal to be ascertained.
- (4) For the purposes of subsection (5) of this section, the expression **auctioneer** means a registered person carrying on a taxable activity which comprises or includes the supply by auction of goods as an auctioneer or agent for or on behalf of another person (hereafter in this section referred to as a principal).
- (5) Notwithstanding anything in the foregoing provisions of this section, where the principal and the auctioneer agree to have a supply by auction of any goods, not being a taxable supply, treated as if that supply had been made by that auctioneer and not by that principal, that supply shall be charged with tax as if it were made by that auctioneer in the course or furtherance of that auctioneer's taxable activity and that auctioneer may—
- (a) Recover the amount of tax charged on that supply from that principal as a debt together with the costs of recovery in any Court of competent jurisdiction; or
  - (b) Retain or deduct the same out of any money in that auctioneer's hands belonging or payable to that principal.

- (6) Notwithstanding anything in subsection (2) of this section, where any registered person makes a taxable supply (not being a supply that is charged with tax at the rate of zero percent pursuant to section 11, 11A, 11AB or 11B) of goods and services to an agent, being a registered person, who is acting for or on behalf of another person who is the principal for the purposes of that supply, and—
- (a) That principal is a non-resident and is not a registered person; and
  - (b) That supply is directly in connection with either the exportation, or the arranging thereof, of goods from New Zealand to any country or place outside New Zealand, or the importation, or the arranging thereof, of goods to New Zealand from any country or place outside New Zealand, including, in either case, the transportation of those goods within New Zealand as part of that exportation or, as the case may be, importation,—
- this Act shall, where that agent and that principal agree, have effect as if that supply were made to that agent and not to that principal.
- (7) Despite subsection (1), a supply of goods, being goods to which section 12(1) applies, that have been imported by an agent who is acting for and on behalf of the principal, is treated as being a supply made by the agent and not by the principal if—
- (a) the principal is a non-resident and is not a registered person; and
  - (b) the agent is a resident and is a registered person at the time the goods are imported; and
  - (c) the principal and agent agree that the supply was made by the agent and not by the principal.

Subsection (1) was substituted, as from 3 December 1985, by section 1 (1) Goods and Services Tax Amendment Act 1986 (1986 No 43).

Subsection (2) proviso was amended, as from 3 December 1985, by section 31(2)(a) Goods and Services Tax Amendment Act 1986 (1986 No 43) by inserting the words “or credit note or debit note”

Subsection (3) was amended, as from 3 December 1985, by section 31(2)(b) Goods and Services Tax Amendment Act 1986 (1986 No 43) by inserting the words “or credit note or debit note”

Subsection (6) was inserted, as from 3 December 1985, by section 31(3) Goods and Services Tax Amendment Act 1986 (1986 No 43).

Subsection (6) was amended, by section 113(1) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39) by substituting the expression “section 11, 11A or 11B” for the expression “section 11 of this Act”, with application as from 10 October 2000.

Subsection (6) was amended, as from 1 July 2003, by section 161 Taxation (Maori Organisations, Taxpayer Compliance and Miscellaneous Provisions) Act 2003 (2003 No 5) by inserting the expression “, 11AB” after the expression “11A”.

Subsection (6)(a) was amended, as from 25 November 2003, by section 167(1) Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 (2003 No 122) by substituting the words “a non-resident” for the words “not resident in New Zealand”.

Subsection (7) was inserted, by section 113(2) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39) with application as from 10 October 2000.

Subsection (7)(a) was amended, as from 25 November 2003, by section 167(1) Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 (2003 No 122) by substituting the words “a non-resident” for the words “not resident in New Zealand”.

Subsection (7)(b) was amended, as from 25 November 2003, by section 167(2) Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 (2003 No 122) by substituting the words “a resident” for the words “resident in New Zealand”.

## **61 Liability for tax payable by company left with insufficient assets**

Section HD 15 of the Income Tax Act 2007, with any necessary modifications, applies for the purpose of this Act as if the terms **income tax** or **tax** read **goods and services tax**.

Section 61 was substituted, by section 114(1) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39) with application as from 10 October 2000.

Section 61: amended, on 1 April 2008, by section ZA 2(1) of the Income Tax Act 2007 (2007 No 97).

Section 61 was amended, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35) by substituting the words “Income Tax Act 2004” for the words “Income Tax Act 1994”.

Section 61 was amended, as from 1 April 1995, by section YB 1 Income Tax Act 1994 (1994 No 164) by substituting the words “Section HK 11 of the Income Tax Act 1994” for the words “Section 276 of the Income Tax Act 1976”.

### **61A Company Amalgamations**

- (1) For the purposes of this section, the terms **amalgamated company**, **amalgamating company**, and **amalgamation** have the same meanings as in section YA 1 of the Income Tax Act 2007.

- (2) In any case where—
- (a) An amalgamation occurs; and
  - (b) Either—
    - (i) The amalgamated company is a registered person immediately after the amalgamation; or
    - (ii) An amalgamating company is not a registered person immediately before the amalgamation; and
  - (c) The amalgamated company acquires in the course of the amalgamation any goods and services of the amalgamating company,—
- then for the purposes of this Act—
- (d) The amalgamating company shall be deemed not to have made a supply of those goods and services; and
  - (e) Except to the extent to which paragraph (f) of this subsection applies, the amalgamated company shall be deemed not to have paid or provided any consideration for the acquisition of those goods and services; and
  - (f) Sections 21 to 21H shall apply as if the amalgamated company had acquired those goods and services—
    - (i) At the same time; and
    - (ii) With the same purposes; and
    - (iii) For the same cost,—as the amalgamating company.
- (3) In any case where—
- (a) An amalgamation occurs; and
  - (b) The amalgamated company is not a registered person immediately after the amalgamation; and
  - (c) An amalgamating company is a registered person immediately before the amalgamation; and
  - (d) The amalgamated company acquires in the course of the amalgamation any goods and services of the amalgamating company,—
- then for the purposes of this Act the goods and services shall be deemed to have been supplied by the amalgamating company, and acquired by the amalgamated company, for a consideration equal to the open market value of the goods and services at the date of the amalgamation.
- (4) Where—

- (a) An amalgamating company ceases to exist on an amalgamation; and
  - (b) But for this subsection, section 21I(3) or 21I(4) would deem the amalgamating company to make a supply on a date after the amalgamation,—  
then for the purposes of this Act the supply shall be deemed to be made by the amalgamated company (as if, in any case where the amalgamated company is not at that date a registered person, the amalgamated company were a registered person), and not by the amalgamating company, on that date.
- (5) Where—
- (a) An amalgamating company ceases to exist on an amalgamation; and
  - (b) If the amalgamated company were the same person as the amalgamating company, a deduction would have been available to, or tax would have been charged to, the amalgamated company under section 26 of this Act,—  
the deduction shall be available to, or tax will be charged to, the amalgamated company.
- (6) Where an amalgamating company ceases to exist on an amalgamation, section 51(1)(a) of this Act shall apply as if all supplies made by the amalgamating company had been made by the amalgamated company.

Section 61A was inserted, as from 1 July 1994, by section 8 Goods and Services Tax Amendment Act 1994 (1994 No 77).

Subsection (1) was substituted, as from 1 April 1995, by section YB 1 Income Tax Act 1994 (1994 No 164).

Section 61A(1): amended, on 1 April 2008, by section ZA 2(1) of the Income Tax Act 2007 (2007 No 97).

Subsection (1) was amended, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35) by substituting the words “Income Tax Act 2004” for the words “Income Tax Act 1994”.

Subsection (2)(f) was amended by section 115(1) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39) by substituting the expression “section 21 to 21H” for the expression “section 21 of this Act”, with application as from 10 October 2000

Subsection (4)(b) was amended by section 115(2) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39) by substituting the expression “section 21I(3) or 21I(4)” for the expression “subsection (3B) or subsection (4) of section 21 of this Act”, with application as from 10 October 2000

## **61B Application of Part 9 of Tax Administration Act 1994**

*[Repealed]*

Section 61B was inserted by section 18 Goods and Services Tax Amendment Act 1996 (1996 No 59) with application to tax obligations, liabilities, and rights that are to be performed under or arise in relation to supplies made in respect of taxable periods commencing as from 1 April 1997. *See* section 1(3) of that Act as to the application of this amendment in relation to other provisions of this Act.

Section 61B was repealed, as from 21 December 2004, by section 159 Taxation (Venture Capital and Miscellaneous Provisions) Act 2004 (2004 No 111).

## **Part 10 Penalties**

Part 10 (comprising sections 62 to 74) was repealed by section 19(1) Goods and Services Tax Amendment Act 1996 (1996 No 59) with application to tax obligations, liabilities, and rights that are to be performed under or arise in relation to supplies made in respect of taxable periods commencing as from 1 April 1997. *See* section 19(2) of that Act as to the transitional provisions. *See* section 1(3) of that Act as to the application of this amendment in relation to other provisions of this Act.

## **62 Offences**

*[Repealed]*

In subsection (1)(f) the word “either” was omitted, as from 3 December 1985, by section 32(1) Goods and Services Tax Amendment Act 1986 (1986 No 43); and subparagraph (iii) was inserted, as from 3 December 1985, by section 32(2) of that Act. Paragraph (ka) was inserted, as from 3 December 1985, by section 32(3) Goods and Services Tax Amendment Act 1986 (1986 No 43).

In subsection (2) the words “or paragraph (ka)” were inserted, as from 3 December 1985, by section 32(4) Goods and Services Tax Amendment Act 1986 (1986 No 43).

Part 10 (comprising sections 62 to 74) was repealed by section 19(1) Goods and Services Tax Amendment Act 1996 (1996 No 59) with application to tax obligations, liabilities, and rights that are to be performed under or arise in relation to supplies made in respect of taxable periods commencing as from 1 April 1997. *See* section 19(2) of that Act as to the transitional provisions. *See* section 1(3) of that Act as to the application of this amendment in relation to other provisions of this Act.

## **63 Officers and employees of corporate bodies**

*[Repealed]*

Part 10 (comprising sections 62 to 74) was repealed by section 19(1) Goods and Services Tax Amendment Act 1996 (1996 No 59) with application to tax obligations, liabilities, and rights that are to be performed under or arise in relation to supplies made in respect of taxable periods commencing as from 1 April 1997. *See* section 19(2) of that Act as to the transitional provisions. *See* sec-

tion 1(3) of that Act as to the application of this amendment in relation to other provisions of this Act.

#### **64 Proceedings to be taken summarily**

*[Repealed]*

Part 10 (comprising sections 62 to 74) was repealed by section 19(1) Goods and Services Tax Amendment Act 1996 (1996 No 59) with application to tax obligations, liabilities, and rights that are to be performed under or arise in relation to supplies made in respect of taxable periods commencing as from 1 April 1997. See section 19(2) of that Act as to the transitional provisions. See section 1(3) of that Act as to the application of this amendment in relation to other provisions of this Act.

#### **65 Information may charge several offences**

*[Repealed]*

Part 10 (comprising sections 62 to 74) was repealed by section 19(1) Goods and Services Tax Amendment Act 1996 (1996 No 59) with application to tax obligations, liabilities, and rights that are to be performed under or arise in relation to supplies made in respect of taxable periods commencing as from 1 April 1997. See section 19(2) of that Act as to the transitional provisions. See section 1(3) of that Act as to the application of this amendment in relation to other provisions of this Act.

#### **66 Information may be laid within 10 years**

*[Repealed]*

Part 10 (comprising sections 62 to 74) was repealed by section 19(1) Goods and Services Tax Amendment Act 1996 (1996 No 59) with application to tax obligations, liabilities, and rights that are to be performed under or arise in relation to supplies made in respect of taxable periods commencing as from 1 April 1997. See section 19(2) of that Act as to the transitional provisions. See section 1(3) of that Act as to the application of this amendment in relation to other provisions of this Act.

#### **67 Penal tax in case of evasion**

*[Repealed]*

Part 10 (comprising sections 62 to 74) was repealed by section 19(1) Goods and Services Tax Amendment Act 1996 (1996 No 59) with application to tax obligations, liabilities, and rights that are to be performed under or arise in relation to supplies made in respect of taxable periods commencing as from 1 April 1997. See section 19(2) of that Act as to the transitional provisions. See section 1(3) of that Act as to the application of this amendment in relation to other provisions of this Act.

## **68 Nature of penal tax**

*[Repealed]*

Part 10 (comprising sections 62 to 74) was repealed by section 19(1) Goods and Services Tax Amendment Act 1996 (1996 No 59) with application to tax obligations, liabilities, and rights that are to be performed under or arise in relation to supplies made in respect of taxable periods commencing as from 1 April 1997. See section 19(2) of that Act as to the transitional provisions. See section 1(3) of that Act as to the application of this amendment in relation to other provisions of this Act.

## **69 Assessment of penal tax**

*[Repealed]*

Part 10 (comprising sections 62 to 74) was repealed by section 19(1) Goods and Services Tax Amendment Act 1996 (1996 No 59) with application to tax obligations, liabilities, and rights that are to be performed under or arise in relation to supplies made in respect of taxable periods commencing as from 1 April 1997. See section 19(2) of that Act as to the transitional provisions. See section 1(3) of that Act as to the application of this amendment in relation to other provisions of this Act.

## **70 Objections to penal tax**

*[Repealed]*

In subsection (2) the words “of section 33” were omitted, as from 3 December 1985, by section 16(1) Goods and Services Tax Amendment Act 1988 (1988 No 7).

Part 10 (comprising sections 62 to 74) was repealed by section 19(1) Goods and Services Tax Amendment Act 1996 (1996 No 59) with application to tax obligations, liabilities, and rights that are to be performed under or arise in relation to supplies made in respect of taxable periods commencing as from 1 April 1997. See section 19(2) of that Act as to the transitional provisions. See section 1(3) of that Act as to the application of this amendment in relation to other provisions of this Act.

## **71 Recovery of penal tax**

*[Repealed]*

Part 10 (comprising sections 62 to 74) was repealed by section 19(1) Goods and Services Tax Amendment Act 1996 (1996 No 59) with application to tax obligations, liabilities, and rights that are to be performed under or arise in relation to supplies made in respect of taxable periods commencing as from 1 April 1997. See section 19(2) of that Act as to the transitional provisions. See section 1(3) of that Act as to the application of this amendment in relation to other provisions of this Act.

**72 Recovery of penal tax from executors or administrators***[Repealed]*

Part 10 (comprising sections 62 to 74) was repealed by section 19(1) Goods and Services Tax Amendment Act 1996 (1996 No 59) with application to tax obligations, liabilities, and rights that are to be performed under or arise in relation to supplies made in respect of taxable periods commencing as from 1 April 1997. See section 19(2) of that Act as to the transitional provisions. See section 1(3) of that Act as to the application of this amendment in relation to other provisions of this Act.

**73 Recovery of penal tax not affected by conviction of registered person***[Repealed]*

Part 10 (comprising sections 62 to 74) was repealed by section 19(1) Goods and Services Tax Amendment Act 1996 (1996 No 59) with application to tax obligations, liabilities, and rights that are to be performed under or arise in relation to supplies made in respect of taxable periods commencing as from 1 April 1997. See section 19(2) of that Act as to the transitional provisions. See section 1(3) of that Act as to the application of this amendment in relation to other provisions of this Act.

**74 Publication of names of tax evaders***[Repealed]*

Part 10 (comprising sections 62 to 74) was repealed by section 19(1) Goods and Services Tax Amendment Act 1996 (1996 No 59) with application to tax obligations, liabilities, and rights that are to be performed under or arise in relation to supplies made in respect of taxable periods commencing as from 1 April 1997. See section 19(2) of that Act as to the transitional provisions. See section 1(3) of that Act as to the application of this amendment in relation to other provisions of this Act.

## Part 11 General provisions

**75 Keeping of records**

- (1) For the purposes of this section, the term **records** includes books of account (whether contained in a manual, mechanical, or electronic format) recording receipts or payments or income or expenditure, and also includes vouchers, bank statements, invoices, tax invoices, credit notes, debit notes, receipts, and such other documents as are necessary to verify the entries in any such books of account.

- (2) Without limiting the generality of subsection (1) of this section, the records required to be kept and retained, pursuant to subsection (3) of this section, shall contain—
- (a) A record of all goods and services supplied by or to that registered person showing the goods and services, and the suppliers or their agents, in sufficient detail to enable the goods and services, the suppliers, or the agents to be readily identified by the Commissioner, and all invoices, tax invoices, credit notes, and debit notes relating thereto; and
  - (b) The charts and codes of account, the accounting instruction manuals, and the system and programme documentation which describes the accounting system used in each taxable period in the supply of goods and services; and
  - (c) Any list required to be prepared in accordance with section 19B(3) or section 78B(7) of this Act.
- (3) Subject to subsections (4) and (5) of this section, every registered person who supplies in New Zealand goods and services shall keep in New Zealand copies of records issued by that registered person, and sufficient records in the English language to enable ready ascertainment by the Commissioner or any officer authorised by the Commissioner in that behalf, of that person's liability to tax and shall retain in New Zealand all such records for a period of at least 7 years after the end of the taxable period to which they relate:
- Provided that the Commissioner may, in the Commissioner's discretion, on application in writing being made to the Commissioner in that behalf, authorise any such registered person, by notification in writing, to keep and retain outside New Zealand or, as the case may be, in a language other than the English language, such of those records as the Commissioner determines.
- (4) This section shall not require the retention of any records—
- (a) In respect of which the Commissioner has given notice in writing that retention is not required:
  - (b) Of a company which has been liquidated.
- (5) The Commissioner may, by notice in writing given before the expiry of the 7-year retention period specified in subsection

(3) of this section, require a registered person to retain the records specified in that subsection for a further period not exceeding 3 years following the expiry of the 7-year period where—

- (a) The affairs of the registered person are or have been under audit or investigation by the Commissioner; or
- (b) The Commissioner intends to conduct such an audit or investigation before the expiry of the retention period as so extended, or is actively considering any such audit or investigation.

Subsection (2)(c) was amended, as from 1 April 1991, by section 5(9) Goods and Services Tax Amendment Act 1991 (1991 No 11) by substituting the expression “section 19B(3)” for the expression “section 19(10)”.

Subsection (2)(c) was amended, as from 28 July 1988, by section 4(2) Goods and Services Tax Amendment Act (No 3) 1988 (1988 No 125) by inserting the expression “or section 78B(7)”.

Subsection (3) was amended, as from 1 April 1992, by section 10(1)(a) and (b) respectively Goods and Services Tax Amendment Act 1992 (1992 No 2) by substituting the expression “subsections (4) and (5)” for the expression “subsection (4)” and by substituting the expression “7 years” for the expression “10 years”.

Subsection (3) was amended, as from 19 December 1989, by section 15 Goods and Services Tax Amendment Act (No 2) 1989 (1989 No 152) by inserting the words “copies of records issued by that registered person, and”.

Subsection (4)(b) was amended, as from 1 July 1994, by section 9 Goods and Services Tax Amendment Act 1994 (1994 No 77) by substituting the word “liquidated” for the words “wound up and finally dissolved”.

Subsection (5) was inserted, as from 1 April 1992, by section 10(2) Goods and Services Tax Amendment Act 1992 (1992 No 2).

## **76 Avoidance**

- (1) A tax avoidance arrangement entered into by a person is void against the Commissioner for tax purposes.
- (2) A tax avoidance arrangement is one that directly or indirectly—
  - (a) has tax avoidance as its purpose or effect; or
  - (b) has tax avoidance as one of its purposes or effects, whether or not another purpose or effect relates to ordinary business or family dealings, if the purpose or effect is not merely incidental.
- (3) If a tax avoidance arrangement is void against the Commissioner, the Commissioner may adjust the amount of tax

- payable by, or the amount of tax refundable to, a registered person affected by the arrangement, whether or not the registered person is a party to the arrangement, in the manner the Commissioner considers appropriate to counteract any tax advantage obtained by the registered person from or under the arrangement.
- (4) For the purpose of subsection (3), the Commissioner may, in addition to any other treatment the Commissioner considers appropriate, treat—
- (a) a person who is not a registered person and who is a party to or has participated in an arrangement as being a registered person:
  - (b) a supply of goods and services, whether or not a taxable supply, that is affected by or is part of an arrangement as being made to or by a registered person:
  - (c) a supply of goods and services as occurring in a taxable period that, but for an arrangement affected by this section, would have occurred in the taxable period in which the supply was made:
  - (d) a supply of goods and services as having been made, or consideration for the supply as having been given, at open market value.
- (5) Subsection (6) applies if—
- (a) a person (person A) enters into an arrangement on or after 22 August 1985 whereby a taxable activity formerly carried on by person A is carried on, in whole or in part, by another person (person B) or other persons; and
  - (b) either—
    - (i) person A and person B are associated persons; or
    - (ii) person A and the other persons are associated persons.
- (6) For the purpose of sections 15(3), 15(4), 19A(1) and 51(1), the value of the supplies made in the course of carrying on all taxable activities in a 12-month period starting on the first day of any month by person A and person B or person A and the other persons is, to the extent that the value relates to supplies arising from the taxable activity formerly carried on by person A, each to be treated as being equal to the aggregate of the value of the taxable supplies made by all persons for that period.

- (7) The Commissioner may, having regard to the circumstances of the case and if the Commissioner considers it equitable to do so, determine that subsection (6) does not apply to person A, person B or the other persons.
- (8) For the purpose of this section—
- arrangement** means a contract, agreement, plan or understanding, whether enforceable or unenforceable, including all steps and transactions by which it is carried into effect
- tax avoidance** includes—
- (a) a reduction in the liability of a registered person to pay tax:
  - (b) a postponement in the liability of a registered person to pay tax:
  - (c) an increase in the entitlement of a registered person to a refund of tax:
  - (d) an earlier entitlement of a registered person to a refund of tax:
  - (e) a reduction in the total consideration payable by a person for a supply of goods and services.

In subsection (3) the expression “15(3), 15(4)” was substituted, as from 17 March 1988, for the expression “15(2)” by section 2(8) Goods and Services Tax Amendment Act (No 2) 1988 (1988 No 15). The expression “19A(1)” was substituted, as from 1 April 1991, for the expression “19(2)” by section 5(10) Goods and Services Tax Amendment Act 1991 (1991 No 11).

Section 76 was substituted, by section 116(1) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39) with application as from 10 October 2000.

## 77 New Zealand currency

For the purposes of this Act, all amounts of money shall be expressed in terms of New Zealand currency, and in any case where and to the extent that such amount is consideration in money for a supply, that amount shall be expressed in terms of New Zealand currency as at the time of that supply.

Section 77 was amended, as from 3 December 1985, by section 33 Goods and Services Tax Amendment Act 1986 (1986 No 43) by inserting the words “, and in any case where and to the extent that such amount is consideration in money for a supply, that amount shall be expressed in terms of New Zealand currency as at the time of that supply”.

**78 Effect of imposition or alteration of tax**

(1) For the purposes of this section the expression **alteration in the law** means the coming into force of the provisions of this Act or any amendment to this Act by which—

- (a) A supply of goods and services is charged with, or exempted from, tax; or
- (b) The rate of tax in relation to a supply of goods and services is increased or reduced.

(2) Where an alteration in the law is made and a supplier has, at any time entered into any agreement or contract in respect of the supply of goods and services with a recipient, unless express provision for the exclusion of any such alteration in the law is contained in the agreement or contract, or where the alteration in the law has been taken into account, every such agreement or contract shall be deemed to be modified as follows:

- (a) Where the alteration in the law renders that supply liable to be charged with tax or increases the amount of any tax charged or chargeable in relation to that supply, the supplier may add to the agreed price in the said agreement or contract the amount of that tax or the increase of that tax; or
- (b) Where the alteration in the law renders that supply exempt from tax or reduces the amount of tax charged or chargeable in relation to that supply, the supplier or the recipient may deduct from the agreed price in the said agreement or contract the amount of that tax or the reduction of that tax:

Provided that this subsection shall not apply where that contract or agreement is entered into after the expiry of the period of 3 months that commences with the coming into force of the alteration in the law:

Provided further that this subsection shall not apply to require a public authority to alter any amount agreed to be paid by the authority in respect of any supply of goods and services where the consideration for that supply is in the nature of a grant or subsidy.

(3) Where an alteration in the law is made, any fee, charge, or other amount, prescribed by, or determined pursuant to, any

Act or by any regulation (within the meaning of the Acts and Regulations Publication Act 1989), in respect of any supply of goods and services shall, unless provision to the contrary is contained in that Act or regulation, be deemed to be modified as follows:

- (a) Where the alteration in the law renders the fee, charge, or other amount prescribed by, or determined pursuant to, that Act or regulation liable to be charged with tax or increases the amount of tax charged or chargeable, the said fee, charge, or other amount so prescribed or determined shall be increased by that amount of tax charged or chargeable; or
- (b) Where the alteration in the law renders the fee, charge, or other amount prescribed, or determined pursuant to, that Act or regulation exempt from tax or reduces the amount of tax charged or chargeable, the said fee, charge, or other amount so prescribed or determined shall be exempted from tax or reduced by the amount of tax no longer charged or chargeable:

Provided that where any such Act or regulation prescribes or determines either a maximum or a minimum amount in respect of any supply of goods and services, that maximum or, as the case may be, minimum amount shall, for the purposes of any such Act or regulation, be deemed to be increased or, as the case may be, decreased, by the amount of tax charged or, as the case may be, tax no longer charged by virtue of this subsection:

Provided further that this subsection shall not apply to any fee, charge, or other amount prescribed or determined which is required to be paid by any public authority to any other person by virtue of that Act or regulation.

- (4) Where any alteration in the law takes place so as to operate retrospectively from any date, this section shall also apply retrospectively in the same manner and from the same date, and section 94A(1) of the Judicature Act 1908 shall apply to any money paid by a recipient to a supplier in excess of the amount which by virtue of the application of this section is properly payable in respect of that agreement, contract, Act or regulation, notwithstanding section 94A(2) of the Judicature Act 1908.

- (5) Where any supply is or becomes charged with tax pursuant to this Act, the amount of any increase in consideration in respect of that supply attributable to the tax charged on that supply shall be recoverable by the supplier from the recipient of the taxable supply.

- (6) This section does not apply to a supply of services that is treated by section 8(4B) as being made in New Zealand.

Subsection (2) was amended, as from 3 December 1985, by section 34(1)(a) Goods and Services Tax Amendment Act 1986 (1986 No 43) by substituting the words “has, at any time” for the words “, being a registered person, has”.

Subsection (2) was amended, as from 3 December 1985, by section 34(1)(b) Goods and Services Tax Amendment Act 1986 (1986 No 43) by substituting the word “where” for the words “it is clear from the terms of the agreement or contract that”.

Subsection (2) proviso was inserted, as from 3 December 1985, by section 34(2) Goods and Services Tax Amendment Act 1986 (1986 No 43).

Subsection (2) first and second provisos were substituted, as from 23 March 1989, by section 20 Finance Act 1989 (1989 No 13).

In subsection (3) the Acts and Regulations Publication Act 1989 was substituted for the repealed Regulations Act 1936. In 3 places, the words “, or determined pursuant to,” were inserted, as from 3 December 1985, by section 34(3)(a) Goods and Services Tax Amendment Act 1986 (1986 No 43). In paragraphs (a) and (b) the words “or determined” were inserted, as from 3 December 1985, by section 34(3)(b) of that Act. The provisos were inserted by section 34(4) of that Act.

Subsection (5) was substituted, as from 3 December 1985, by section 34(5) Goods and Services Tax Amendment Act 1986 (1986 No 43).

Subsection (6) was inserted, as from 25 November 2003, by section 168 Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 (2003 No 122).

**78A Returns to be furnished in 2 parts for taxable period in which change in rate of tax occurs**

- (1) Where there is a change in the rate of tax imposed by section 8 of this Act, every registered person who does not have a taxable period beginning on the same day as the date on which the new rate comes into force (other than a person with a taxable period commencing within 7 days before or after the day immediately preceding that date who furnishes returns in accordance with subsection (5) of this section) shall furnish to the Commissioner a return in 2 parts for the taxable period in which the new rate comes into force, comprising—

- (a) A Part 1 return, covering the period beginning on the first day of the person's taxable period and ending with the day immediately preceding the date on which the new rate comes into force; and
  - (b) A Part 2 return, covering the period beginning on the date on which the new rate comes into force and ending with the last day of the person's taxable period.
- (2) Each such part shall be furnished in a form or forms prescribed by the Commissioner, and the 2 parts shall together be deemed to form a single return.
- (3) If the 2 parts are furnished separately, the Commissioner shall be deemed for the purposes of section 46 of this Act not to have received the return until the date on which the later furnished of the 2 parts is received by the Commissioner.
- (4) Every person, whether registered or not, who is required to make a return pursuant to section 16(4) of this Act in respect of any period in which a new rate of tax comes into force shall (except where the new rate comes into force on the first day of that period) furnish a return in 2 parts in accordance with this section, as if the period for which the return is required to be made were a taxable period.
- (5) Any registered person who, pursuant to a determination to the Commissioner under section 15E of this Act, has a taxable period that ends within 7 days before or after the day immediately preceding the date on which a new rate of tax comes into force may, upon written notification to the Commissioner, disregard that determination in relation to the 2 taxable periods that, but for that determination, would have—
- (a) Ended with the day immediately preceding the date on which the new rate comes into force; or
  - (b) Commenced with the day on which the new tax rate comes into force;—
- and where a person so notifies the Commissioner, that person shall accordingly furnish returns in respect of those 2 taxable periods as if—
- (c) The earlier of those periods ended with the day immediately preceding the date on which the new rate of tax comes into force; and

- (d) The later of those periods commenced on the day on which the new rate of tax comes into force.

Sections 78A and 78B were inserted, as from 28 July 1988, by section 4(1) Goods and Services Tax Amendment Act (No 3) 1988 (1988 No 125).

In subsection (1) the words “(other than a ... this section)” were inserted, as from 23 March 1989, by section 21(1) Finance Act 1989 (1989 No 13).

Subsection (4) was amended, as from 31 March 2007, by section 297(1)(a) Taxation (Depreciation, Payment Dates Alignment, FBT, and Miscellaneous Provisions) Act 2006 (2006 No 3) by substituting “section 16(4)” for “section 16(2)” with application for taxable periods ending as from 31 March 2007.

Subsection (5) was inserted, as from 23 March 1989, by section 21(2) of the Finance Act 1989 (1989 No 13).

Section 78A(5): amended, on 1 April 2008, by section 297(1)(b) of the Taxation (Depreciation, Payment Dates Alignment, FBT, and Miscellaneous Provisions) Act 2006 (2006 No 3).

**78B Adjustments to tax payable for persons furnishing returns on payments basis following change in rate of tax**

- (1) Where there is a change in the rate of tax imposed by section 8 of this Act,—

- (a) Any payments that are made or received by a registered person on or after the date on which the new rate comes into force, to the extent that—

- (i) Any such payment is made or received in respect of any qualifying supply referred to in subsection (2A)(a) of this section by a registered person who, as at that date, is required to account for tax payable on a payments basis; or
- (ii) Any such payment is made in respect of any qualifying supply of secondhand goods referred to in subsection (2A)(b) of this section by a registered person who, as at that date, is required to account for tax payable on an invoice basis; or
- (iii) Any such payment is made in respect of any qualifying supply referred to in subsection (2A)(aa) of this section by a registered person who, as at that date, is required to account for tax payable on a hybrid basis,—

shall be deemed, notwithstanding any other provision of this Act, to be consideration for a supply made or received by that registered person on or after the date

- on which the new rate of tax comes into force, and the amount of any input tax or output tax in respect of any such supply shall accordingly be determined on the basis of the new rate of tax; but
- (b) The amount of tax payable under section 20 of this Act by any registered person referred to in paragraph (a) of this subsection who makes or receives a qualifying supply shall be adjusted by an amount calculated in accordance with this section.
- (2) Where subsection (1)(b) of this section requires an adjustment to be made of the amount of tax payable by a registered person,—
- (a) The calculation of the adjustment shall be recorded in a form prescribed by the Commissioner; and
- (b) The registered person shall furnish that prescribed form to the Commissioner together with—
- (i) That person's Part 1 return furnished under section 78A of this Act; or
- (ii) If the person is not required to furnish a Part 1 return, the return for the taxable period ending with the day preceding the date on which the new rate of tax comes into force.
- (2A) For the purposes of this section, the term **qualifying supply** means—
- (a) In relation to a person who, as at the date on which the new rate of tax comes into force, is required to account for tax payable on a payments basis,—
- (i) Any taxable supply made by the registered person; or
- (ii) Any taxable supply made to the registered person; or
- (iii) Any supply made to the registered person that is a supply of secondhand goods to which section 3A(1)(c) of the **input tax** definition applies; or
- (iv) Any supply made by the registered person that is a specified supply within the meaning of section 86 of this Act; and

- (aa) In relation to a person who, as at the date on which the new rate of tax comes into force, is required to account for tax payable on a hybrid basis,—
  - (i) Any taxable supply made to the registered person; or
  - (ii) Any supply made to the registered person that is a supply of secondhand goods to which section 3A(1)(c) of the **input tax** definition applies; and
- (b) In relation to a person who, as at the date on which the new rate of tax comes into force, is required to account for tax payable on an invoice basis, any supply made to the registered person that is a supply of secondhand goods to which section 3A(1)(c) of the **input tax** definition applies,—  
to the extent that—
  - (c) As at the commencement of the day on which the new rate of tax comes into force, the consideration for the supply—
    - (i) Remains unpaid; and
    - (ii) Has not been written off by the registered person as a bad debt; and
  - (d) The supply is not required to be taken into account (otherwise than pursuant to this section) in calculating the tax payable by the registered person in respect of—
    - (i) That part of the taxable period in which the new rate of tax comes into force that is required by section 78A of this Act to be covered by a Part 1 return; or
    - (ii) Any other taxable period ending before the new rate of tax comes into force; and
  - (e) The supply is not charged with tax at the rate of zero percent; and
  - (f) The supply, in the case of a supply made to the registered person, is a supply in respect of which—
    - (i) A tax invoice or debit note or credit note has been provided in accordance with sections 24 and 25 of this Act and is held by that registered person at the time the prescribed form is furnished in accordance with subsection (2) of this section; or

- (ii) A tax invoice is not required to be issued pursuant to section 24(5) or section 24(6) of this Act, or a debit note or credit note is not required to be issued pursuant to section 25 of this Act; or
  - (iii) Sufficient records are maintained as required pursuant to section 24(7) of this Act, where the supply is a supply of secondhand goods to which that section relates.
- (3) The adjustment required by this section shall be calculated as follows:
  - (a) First determine the amount of consideration payable by the registered person on qualifying supplies made to the registered person:
  - (b) Subtract the amount of the consideration payable to the registered person on qualifying supplies made by the registered person:
  - (c) Multiply the resulting total by an amount equal to the old tax fraction subtracted from the new tax fraction (as respectively calculated in accordance with section 2 of this Act immediately before and immediately after the new rate of tax comes into force).
- (4) Where the amount of any adjustment calculated in accordance with this section is a positive amount, that amount shall, in relation to the registered person, be deemed to be output tax attributable to the taxable period for the return referred to in subsection (2)(b) of this section.
- (5) Where the amount so calculated is a negative amount, that amount shall be a credit to the registered person, and—
  - (a) Shall be set off against any amount of tax payable by the registered person in respect of any taxable period ending before the day on which the new rate of tax comes into force; and
  - (b) To the extent that it cannot be so set off, shall be set off against any amount of tax payable by the registered person in respect of the taxable period in which the new rate comes into force; and
  - (c) To the extent that it cannot be so set off, shall be carried forward to the next taxable period and set off against

- any amount of tax payable by the registered person in respect of that next taxable period, and so on,—  
but no such credit shall be refunded by the Commissioner.
- (6) Subject to subsections (6A) and (6B) of this section, where a registered person who has made an adjustment pursuant to this section subsequently writes off as a bad debt any amount that was consideration for a qualifying supply,—
- (a) The registered person shall make an adjustment of an amount equal to the amount written off as a bad debt, multiplied by an amount equal to the old tax fraction subtracted from the new tax fraction (as referred to in subsection (3)(c) of this section); and
  - (b) The amount of that adjustment shall, in the taxable period in which the amount is written off, be deemed to be—
    - (i) Output tax where the amount of the adjustment is a positive amount; and
    - (ii) Input tax where the amount of the adjustment is a negative amount.
- (6A) Where—
- (a) At any time after the new rate of tax comes into force, a registered person has been directed by the Commissioner pursuant to section 19 or section 19A of this Act to change from an invoice basis or a hybrid basis to a payments basis of accounting; and
  - (b) That registered person subsequently writes off as a bad debt any amount that would have been consideration for a qualifying supply if that registered person had in fact been on the payments basis of accounting as at the date on which the new rate of tax came into force,—
- that registered person shall, for the purposes of subsection (6) of this section, be deemed, in respect of such amounts written off as a bad debt, to have made an adjustment pursuant to subsection (1) of this section.
- (6B) Where—
- (a) At any time after the new rate of tax comes into force, any registered person has been directed by the Commissioner pursuant to section 19 or section 19A of this Act

- to change from a payments basis to an invoice basis or a hybrid basis of accounting; and
- (b) That registered person subsequently writes off as a bad debt any amount that was consideration for a qualifying supply,—
- that registered person shall, for the purposes of subsection (6) of this section, be deemed, in respect of such amounts written off as a bad debt, to have not made an adjustment pursuant to subsection (1) of this section.
- (7) For the purposes of this section, a registered person shall, in respect of all qualifying supplies made by or to that person, prepare—
- (a) A list of debtors of the registered person showing the amounts due to that person as at the commencement of the day on which the new rate of tax comes into force; and
- (b) A list of creditors of the registered person showing the amounts due by that person as at the commencement of that day.

Sections 78A and 78B were inserted, as from 28 July 1988, by section 4(1) Goods and Services Tax Amendment Act (No 3) 1988 (1988 No 125).

Subsection (1) was substituted, as from 13 July 1989, by section 22(1) Finance Act 1989 (1989 No 51).

Subsection (1)(a) was amended, as from 1 April 1991, by section 6(1)(a) Goods and Services Tax Amendment Act 1991 (1991 No 11) by substituting the words “basis; or” for the word “basis,—”

Subsection (1)(a)(iii) was inserted, as from 1 April 1991, by section 6(1)(b) Goods and Services Tax Amendment Act 1991 (1991 No 11).

Subsection (2) was substituted, as from 13 July 1989, by section 22(1) Finance Act 1989 (1989 No 13).

Subsection (2A) was inserted, as from 13 July 1989, by section 22(1) Finance Act 1989 (1989 No 51).

Subsection (2A)(aa) was inserted, as from 1 April 1991, by section 6(2) Goods and Services Tax Amendment Act 1991 (1991 No 11).

Subsection (2A)(a)(iii), (2A)(aa)(ii), and (2A)(b) was amended, by section 117(1) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39) by substituting the words “section 3A(1)(c) of the **input tax** definition applies” for the words “paragraph (c) of the definition of the term **input tax** in section 2(1) of this Act applies”, with application as from 10 October 2000.

Subsection (4) was amended, as from 13 July 1989, by section 22(2) Finance Act 1989 (1989 No 51) by substituting the expression “subsection (2)(b)” for the expression “subsection (1)(c)”.

Subsection (6) was amended, as from 1 July 1989, by section 16(2) Goods and Services Tax Amendment Act (No 2) 1989 (1989 No 152) by inserting the words “subject to ... this section”.

Subsections (6A) and (6B) were inserted, as from 1 July 1989, by section 16(1) Goods and Services Tax Amendment Act (No 2) 1989 (1989 No 152).

Subsection (6A) was amended, as from 1 April 1991, by section 6(3)(a) and (b) Goods and Services Tax Amendment Act 1991 (1991 No 11) by inserting the words “or section 19A” and “or a hybrid basis”.

Subsection (6B)(a) was amended, as from 1 April 1991, by section 6(4)(a) and (b) Goods and Services Tax Amendment Act 1991 (1991 No 11) by inserting the words “or section 19A” and “or a hybrid basis”.

**78BA Adjustments to tax payable in relation to credit and debit notes following change in rate of tax**

- (1) Subject to subsection (6) of section 78B of this Act, where—
- (a) There is a change in the rate of tax imposed by section 8 of this Act; and
  - (b) Any registered person (being a supplier) has made an adjustment pursuant to section 78B of this Act in respect of any qualifying supply made by that person; and
  - (c) That registered person subsequently issues a debit note or credit note (in accordance with section 25 of this Act) in respect of a qualifying supply made for which payment has not been received as at the time of the issue of that debit note or credit note,—
- that registered person shall, in the taxable period in which the debit note or credit note is issued, adjust the amount of tax payable under section 20 of this Act by an amount calculated in accordance with this section.
- (2) Where—
- (a) There is a change in the rate of tax imposed by section 8 of this Act; and
  - (b) Any registered person (being a recipient) has made an adjustment pursuant to section 78B of this Act in respect of any qualifying supply received by that person; and
  - (c) That registered person has subsequently, in respect of any qualifying supply,—
    - (i) Been issued with a debit note or credit note; or
    - (ii) Received written or other notice, or otherwise knows that any tax invoice held is incorrect,—

- for which payment has not been made as at the time of the receipt of that debit note or credit note, or other notice, or knowledge,—
- that registered person shall, in the taxable period in which the debit note or credit note or other notice or knowledge was received, adjust the amount of tax payable under section 20 of this Act by an amount calculated in accordance with this section.
- (3) The adjustment required by this section shall be calculated as follows:
- (a) Subtract from the amount of consideration originally payable to, or, as the case may be, by that registered person the amount of consideration that is now payable to, or, as the case may be, by that registered person:
  - (b) Multiply the resulting total by an amount equal to the old tax fraction subtracted from the new tax fraction (as respectively calculated in accordance with section 2 of this Act immediately before and immediately after the new rate of tax comes into force).
- (4) For the purposes of subsection (1) of this section, the amount of the adjustment pursuant to this section shall be deemed to be—
- (a) Output tax where the amount of the adjustment is a positive amount; and
  - (b) Input tax where the amount of the adjustment is a negative amount.
- (5) For the purposes of subsection (2) of this section, the amount of the adjustment pursuant to this section shall be deemed to be—
- (a) Output tax where the amount of the adjustment is a negative amount; and
  - (b) Input tax where the amount of the adjustment is a positive amount.

Section 78BA was inserted, as from 1 July 1989, by section 17(1) Goods and Services Tax Amendment Act (No 2) 1989 (1989 No 152).

**78C Change in accounting basis coinciding with or occurring after change in rate of tax**

- (1) Where—

- (a) There is a change in the rate of tax imposed by section 8 of this Act; and
- (b) A registered person is required pursuant to section 78A of this Act to furnish both a Part 1 return and a Part 2 return for any taxable period during which the new rate of tax comes into force; and
- (c) The Commissioner has during that taxable period, at any time before the date on which the new rate of tax comes into force, pursuant to section 19 or section 19A of this Act directed the person to change—
  - (i) From an invoice basis to a payments basis or a hybrid basis; or
  - (ii) From a payments basis to an invoice or a hybrid basis; or
  - (iii) From a hybrid basis to an invoice or a payments basis—

the provisions of sections 19 to 19C of this Act (except section 19B(2)) shall have effect in respect of that registered person as if each of the periods for which a Part 1 return or a Part 2 return is required to be made were a separate taxable period, and the Commissioner's direction shall have effect from the commencement of the period for which a Part 2 return is required to be furnished.

- (2) Where the Commissioner directs a change in accounting basis for any registered person pursuant to section 19 or section 19A of this Act at any time after a new rate of tax comes into force,—
  - (a) For the purpose of determining under section 19C of this Act the amount of any input tax deducted and output tax accounted for, and any input tax that would have been deducted and output tax that would have been accounted for if the person had been accounting for tax payable on a different basis,—
    - (i) The amount of any such input tax in respect of any taxable supply, or any supply of secondhand goods to which section 3A(1)(c) of the **input tax** definition applies, shall be deemed to be an amount equal to the new tax fraction (being the tax fraction as calculated in accordance with sec-

tion 2 of this Act immediately after the coming into force of the new rate of tax) of the consideration in money for the supply or for the second-hand goods; and

- (ii) The amount of any such output tax in respect of any taxable supply shall be deemed to be an amount equal to that new tax fraction of the consideration in money for the supply,—

notwithstanding that the supply may have occurred during any taxable period or part of a taxable period occurring before the date on which the new rate came into force; and

- (b) For the purpose of determining the amount of any such input or output tax deducted or accounted for, or that would have been deducted or accounted for, no account shall be taken of the amount of any adjustment under section 78B of this Act; and
- (c) Any payments that are made or received by that registered person after that change in accounting basis shall be deemed, notwithstanding any other provision of this Act, to be consideration for a supply made or received by that registered person on or after the date on which the new rate of tax comes into force, and the amount of any input tax or output tax in respect of any such supply shall accordingly be determined on the basis of the new rate of tax.

Sections 78C and 78D were inserted, as from 23 March 1989, by section 23 Finance Act 1989 (1989 No 13).

Subsection (1)(c) was substituted, as from 1 April 1991, by section 7(1) Goods and Services Tax Amendment Act 1991 (1991 No 11). The words “sections 19 to 19C ... 19B(2)” were substituted, as from 1 April 1991, for the words “section 19 of this Act (except subsection (5) of that section)” by section 7(2)(a) of that Act.

Subsection (2) was amended, as from 1 April 1991, by section 7(2)(b) Goods and Services Tax Amendment Act 1991 (1991 No 11) by inserting the words “or section 19A”.

Subsection (2)(a) was amended, as from 1 April 1991, by section 7(2)(c) Goods and Services Tax Amendment Act 1991 (1991 No 11) by substituting the words “under section 19C” for the former words.

Subsection (2)(a)(i) was amended, by section 118(1) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39) by substituting the words “section 3A(1)(c) of the **input tax** definition applies” for the words “paragraph (c) of

the definition of the term **input tax** in section 2(1) of this Act”, with application as from 10 October 2000.

Subsection (2)(b) was amended, as from 1 July 1989, by section 18(1) Goods and Services Tax Amendment Act (No 2) 1989 (1989 No 152) by substituting the words “Act; and” for the word “Act”.

Subsection (2)(c) was inserted, as from 1 July 1989, by section 18(2) Goods and Services Tax Amendment Act (No 2) 1989 (1989 No 152).

**78D Liability to pay past tax, etc, not affected by alteration in the law**

Except as otherwise expressly provided in any enactment, the repeal or amendment of any provision of this Act shall not affect any liability or right of any person or of the Crown that existed under that provision immediately before its repeal or amendment, and in particular,—

- (a) Any liability to tax, or to any fine or penalty, of any person pursuant to the repealed or amended provision, and the right of the Crown to any revenue, tax, fee, fine, or penalty pursuant to the repealed or amended provision, shall not be affected by the repeal or amendment; and
- (b) All acts and proceedings for the assessment or recovery of any revenue, tax, fine, or penalty assessed or assessable or paid or payable pursuant to the repealed or amended provision, and all proceedings in respect of offences committed or alleged to be committed in respect of the repealed or amended provision, may be instituted or continued as if the provision had not been repealed or amended.

Sections 78C and 78D were inserted, as from 23 March 1989, by section 23 Finance Act 1989 (1989 No 13).

**78E Alteration of agreed price in relation to supply mistakenly believed to be of a going concern**

Where—

- (a) A supplier and a recipient have agreed in writing that a supply is the supply of a going concern, and the supplier has accordingly treated the supply as being chargeable with tax at the rate of zero percent under section 11(1)(m) of this Act; and

- (b) The contract or agreement for the supply contains no provision for an increase to the agreed price arising in the event that the supply is not a supply that comes within the provisions of section 11(1)(m), or does not otherwise contemplate or provide for the consequences if tax is not chargeable at the rate of zero percent; and
- (c) The supply does not come within the provisions of section 11(1)(m),—

the supplier may increase the consideration for the supply by an amount equal to the agreed price in the contract or agreement multiplied by a percentage equal to the percentage specified in section 8(1) of this Act applicable to that supply.

Section 78E was inserted by section 9(1) Goods and Services Tax Amendment Act 1995 (1995 No 22) with application in respect of supplies made pursuant to a contract or agreement entered into as from 10 April 1995.

Section 78E was substituted by section 6(1) Goods and Services Tax Amendment Act (No 2) 1995 (1995 No 75) with application to supplies made under a contract or agreement entered into as from 10 April 1995.

Section 78E was amended, by section 119(1) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39) by substituting the expression “section 11(1)(m)” for the expression “section 11(1)(c) of this Act”, wherever it occurred, with application as from 10 October 2000.

## **79 Disclosure of information**

- (1) No obligation as to secrecy or other restriction upon the disclosure of information imposed by any enactment or otherwise shall prevent either—
  - (a) The Commissioner of Inland Revenue or any officer authorised in that behalf; and
  - (b) The Chief Executive of the New Zealand Customs Service or any officer of Customs authorised in that behalf,—
 from disclosing to each other information obtained for revenue-gathering purposes and which is required to be disclosed by the persons authorised by this subsection for the same purpose to give effect to the provisions of this Act.
- (2) Information obtained pursuant to subsection (1) of this section shall not be disclosed except—
  - (a) To the persons authorised under that subsection; or

- (b) For the purpose of any proceedings connected with a matter in relation to which those persons so authorised perform their duties.

Subsection (1)(b) was amended, as from 1 October 1996, by section 289(1) Customs and Excise Act 1996 (1996 No 27) by substituting the words “The Chief Executive of the New Zealand Customs Service” for the words “The Comptroller of Customs”

**80 Power to extend time for doing anything under Act**

*[Repealed]*

Section 80 was repealed, as from 21 December 2004, by section 160 Taxation (Venture Capital and Miscellaneous Provisions) Act 2004 (2004 No 111).

**81 Regulations**

*[Repealed]*

Section 81 was repealed, as from 21 December 2004, by section 161 Taxation (Venture Capital and Miscellaneous Provisions) Act 2004 (2004 No 111).

**Part 12**  
**Transitional provisions**

**82 Registration of persons liable to be registered on 1 October 1986**

*[Repealed]*

Section 82 was repealed, by section 120(1) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39) with application on 10 October 2000.

**83 Deduction for sales tax**

*[Repealed]*

Subsection (1) trading stock: paragraph (c) was amended, as from 3 December 1985, by section 35(a) Goods and Services Tax Amendment Act 1986 (1986 No 43) by substituting the words “excise duty imposed by Part 4A of the Customs Act 1966” for the words “sales tax”.

Subsection (1) trading stock: paragraph (d) was amended, as from 3 December 1985, by section 35(a) Goods and Services Tax Amendment Act 1986 (1986 No 43) by inserting the words “, not being goods in respect of which that registered person has paid sales tax”.

Section 83 was repealed, by section 121(1) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39) with application on 10 October 2000.

**84 Supplies prior to 1 October 1986**

- (1) For the purposes of this Part of this Act, the expression **time of performance** means,—
- (a) In relation to a supply of goods,—
    - (i) Where the goods are to be removed, the time of the removal:
    - (ia) Where the goods are to be removed and where the property in those goods will pass from the supplier to the recipient, the earlier of the time of the removal and the time that that property passes:
    - (ii) Where the goods are not to be removed, the time when they are made available to the recipient:
    - (iii) Where the goods (being sent or taken on approval, sale or return, or similar terms) are removed before it is known whether a supply will take place, the time when it becomes certain that the supply has taken place; or
  - (b) In relation to a supply of services, the time when the services are performed.
- (1A) Where any registered person supplies or agrees to supply services by virtue of or pursuant to any contract, agreement, or enactment, (whether conditionally or unconditionally, on the happening of any event or any contingency, or otherwise), and that contract, agreement, or enactment expressly or impliedly provides that for, or in respect of, any period or periods, that—
- (a) Any right is to be granted or exercisable, or any thing is to be done, or omitted to be done; or
  - (b) Any payment is due, or may be made; or
  - (c) The contract or agreement is in force, or enforceable, or will have effect,—
- those services shall for the purposes of subsection (1)(b) of this section be deemed to be performed by that registered person continuously and uniformly during the whole of that period or those periods.
- (1B) Where any services are supplied pursuant to any contract, agreement, or enactment which provides that any right is to be granted or exercisable by an individual for a period which will end with the termination of the life of that individual,

and where that contract, agreement, or enactment provides for a single non-refundable payment as consideration for the granting or exercising of that right, those services shall, for the purposes of subsection (1)(b) of this section, be deemed to have been performed at the earlier of the time that that right is granted by the supplier or first becomes exercisable.

- (2) Notwithstanding anything in this Act, for the purposes of subsection (1) of this section, goods supplied under an agreement to hire as defined in section 9(3)(c) of this Act shall be deemed to be a supply of services.
- (3) Subject to subsection (4) of this section and notwithstanding anything in section 9 or sections 21 to 21H, where, and to the extent that, the time of performance of any supply of goods and services—
  - (a) Is before the 1st day of October 1986, and that supply would, but for this section, be deemed by section 9 or sections 21 to 21H to take place on or after the 1st day of October 1986, and the value of that supply is ascertainable, that time of performance shall, for the purposes of this Act, be the time when the supply of those goods and services is deemed to take place:
  - (b) Is on or after the 1st day of October 1986, and that supply would, but for this section, be deemed by section 9 or sections 21 to 21H to take place before the 1st day of October 1986,—
    - (i) That time of performance shall, for the purposes of section 8 of this Act, be the time when the supply of those goods and services is deemed to take place; and
    - (ii) The time when the supply of those goods and services is made shall, for the purposes of section 20 of this Act, be deemed to be the 1st day of October 1986; and
    - (iii) For the purposes of sections 20(3)(b)(i) and 20(4)(b)(i) of this Act, where and to the extent that any payment has been made or, as the case may be, received in respect of that supply before the 1st day of October 1986, that payment shall

be deemed to have been made or, as the case may be, received on the 1st day of October 1986.

- (4) Notwithstanding anything in subsection (3) of this section, where and to the extent that any supply of goods is the construction, major reconstruction, manufacture, or extension of a building or a civil engineering work by the supplier, and the goods—

- (a) Are sold pursuant to any written contract entered into before the 1st day of October 1986; and
- (b) Are made available to the recipient on or after the 1st day of October 1986,—

the value of all work and materials permanently incorporated in or affixed on the site of the building or civil engineering work pursuant to that contract shall be determined as at the close of the 30th day of September 1986, and—

- (c) To the extent that the aggregate of the consideration in money for all supplies in respect of the sale of those goods which, pursuant to section 9(1) or section 9(3)(aa)(ii) of this Act, took place before the 1st day of October 1986, exceeds that value, the amount of that excess shall be deemed to be consideration in money for a taxable supply made by that supplier on the 1st day of October 1986 and charged with tax pursuant to section 8(1) of this Act:
- (d) To the extent that that value exceeds the aggregate of the consideration in money for all supplies in respect of the sale of those goods which, pursuant to section 9(1) or section 9(3)(aa)(ii) of this Act, took place before the 1st day of October 1986, the consideration in money for the first supply in respect of the sale of those goods which, pursuant to section 9(1) or section 9(3)(aa)(ii) of this Act, takes place on or after the 1st day of October 1986 shall be deemed to be reduced by the amount of that excess:

Provided that any part of the amount of that excess remaining, in any case where that consideration is reduced to nil as a result of the application of this paragraph, shall be carried forward

and the consideration for any subsequent such supply shall be deemed to be reduced to that extent, and so on.:

Provided that this subsection shall only apply to the extent that that value has been determined on or before the 1st day of December 1986 in a manner acceptable to the Commissioner by a competent independent valuer, or by any other competent valuer that the Commissioner may, in the Commissioner's discretion approve:

Provided further that where any such supply is made to a registered person, exclusively for the purposes of making taxable supplies, the first proviso to this subsection shall not apply.

Subsection (1)(a)(ia) was inserted, as from 3 December 1985, by section 36(1) Goods and Services Tax Amendment Act 1986 (1986 No 43).

Subsections (1A) and (1B) were inserted, as from 3 December 1985, by section 36(2) Goods and Services Tax Amendment Act 1986 (1986 No 43).

Subsection (3) was amended, as from 3 December 1985, by section 36(4) Goods and Services Tax Amendment Act 1986 (1986 No 43) by inserting the words "Subject to subsection (4) of this section and".

Subsection (3) was amended, by section 122(1) Taxation (GST and Miscellaneous Provisions) Act 2000 (2000 No 39) by substituting the expression "sections 21 to 21H" for the expression "section 21 of this Act", in all places where it occurs, with application as from 10 October 2000.

Subsection (3)(b)(iii) was substituted, as from 3 December 1985, by section 36(3) Goods and Services Tax Amendment Act 1986 (1986 No 43).

Subsection (4) was substituted (except for the provisos), as from 3 December 1985, by section 36(5) Goods and Services Tax Amendment Act 1986 (1986 No 43). In the first proviso, the words "or by any other competent valuer that the Commissioner may, in the Commissioner's discretion approve" were inserted, as from 3 December 1985, by section 36(6) Goods and Services Tax Amendment Act 1986 (1986 No 43).

#### **84B Supplies of services made before insertion of section 8(4B)**

- (1) This section applies to a supply of services that is treated by section 8(4B) as being made in New Zealand if—
  - (a) the supply has a time of performance under section 84(1) to (1B) that is, or would be if the supply were made by a registered person, before the date on which section 146(2) of the Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 came into force and—

- (i) the supply would, but for this section, be treated by section 9 or sections 21 to 21H as taking place on or after that date; and
    - (ii) the value of the supply is ascertainable; or
  - (b) the supply has a time of performance under section 84(1) to (1B) that is, or would be if the supply were made by a registered person, on or after the date on which section 146(2) of the Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 came into force and the supply would, but for this section, be treated by section 9 or sections 21 to 21H as taking place before that date.
- (2) A supply of services that satisfies subsection (1)(a) is made at the time the services are performed.
- (3) A supply of services that satisfies subsection (1)(b) is made at—
- (a) the time the services are performed, for the purpose of section 8;
  - (b) the date on which section 146(2) of the Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 came into force, for the purpose of section 20.
- (4) A payment that is in respect of a supply that satisfies subsection (1)(b), and is made or received by a person before the date on which section 146(2) of the Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 came into force, is treated for the purpose of section 20(3)(b)(i) and (4)(b)(i) as having been made or received by the person on that date.

Section 84B was inserted, as from 25 November 2003, by section 169 Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 (2003 No 122).

Subsection (2) was amended, as from 21 December 2004, by section 162(1) Taxation (Venture Capital and Miscellaneous Provisions) Act 2004 (2004 No 111) by substituting the words “the services are performed” for the words “given by section 9 or sections 21 to 21H”.

Subsection (3) was amended, as from 21 December 2004, by section 162(2) Taxation (Venture Capital and Miscellaneous Provisions) Act 2004 (2004 No 111) by omitting the words “the time given by”.

Subsection (3)(a) was amended, as from 21 December 2004, by section 162(3) Taxation (Venture Capital and Miscellaneous Provisions) Act 2004

(2004 No 111) by substituting the words “the time the services are performed” for the words “section 9 or sections 21 to 21H”.

**85 Certain contracts entered into on or before 20 August 1985**

(1) For the purposes of this section,—

**Non-reviewable contract** in relation to any supply, means any written contract, or any agreement entered into pursuant to an enactment, for the supply of goods and services where—

- (a) Those goods and services are specifically identified in the contract or, as the case may be, agreement; and
- (b) The consideration in money for that supply is specified in the contract or, as the case may be, agreement either by reference to an amount of money or by way of a formula; and
- (c) The contract or, as the case may be, agreement contains no provision for, and does not otherwise contemplate, any change to that consideration arising either directly or indirectly from the imposition of the goods and services tax; but does not include any contract that provides for or otherwise contemplates a general review of the consideration in money for that supply:

**Review** includes renegotiation, adjustment, or alteration

**Reviewable contract**, in relation to any supply, means any written contract, not being a non-reviewable contract, for the supply of goods and services where the consideration in money for that supply is specified in the contract either by reference to an amount of money or by way of a formula.

The definition of reviewable contract was substituted, as from 3 December 1985, by section 37(2) Goods and Services Tax Amendment Act 1986 (1986 No 43).

- (2) For the purposes of this Act, where any supply is made pursuant to any non-reviewable contract entered into on or before the 20th day of August 1985, and that supply would, but for this section, be charged with tax under section 8 of this Act, that supply shall be charged with tax at the rate of zero percent.
- (3) For the purposes of this Act, where any supply is made pursuant to any reviewable contract entered into on or before the 20th day of August 1985, and that supply would, but for this

section, be charged with tax under section 8 of this Act, that supply shall, to the extent that that supply is made prior to the first opportunity after the said 20th day of August 1985 for the review of the consideration in money for that supply, be charged with tax at the rate of zero percent:

Provided that the time when that supply is made shall be determined solely by reference to the time of performance of that supply.

In subsection (1) the words “, or any agreement entered into pursuant to an enactment,” were inserted, as from 3 December 1985, by section 37(1)(a) Goods and Services Tax Amendment Act 1986 (1986 No 43). The words “or, as the case may be, agreement” were inserted, as from 3 December 1985, in paragraphs (a), (b), and (c) by section 37(1)(b) of that Act. In paragraph (c) the words “; but does not include ... for that supply” were inserted, as from 3 December 1985, by section 37(1)(c) of that Act.

## **86 Alternative method of accounting for transitional supplies**

- (1) For the purposes of this Act, where any registered person who is required to account for tax payable on a payments basis pursuant to section 19 of this Act makes application in writing, the Commissioner shall direct that the provisions of this section shall apply to that registered person in respect of any supply or class of supply determined at the discretion of the Commissioner (hereafter in this section referred to as a **specified supply**).
- (2) For the purposes of this Act, in respect of any specified supply, where the Commissioner has made a determination in accordance with subsection (1) of this section,—
  - (a) The supplier shall be deemed to be required to account for tax payable on an invoice basis pursuant to section 19 of this Act for each such specified supply to which section 84 of this Act applies and in respect of which an invoice has been issued or any payment received prior to the 1st day of October 1986, and shall be deemed to have received payment in full on the 1st day of October 1986 for each such supply:
  - (b) Where any amount of the consideration in money for that supply (not being a supply to which paragraph (c) of this subsection applies) remains unpaid as at the end of the 30th day of September 1986 (not being an amount

written off as a bad debt as at that date), the supplier shall set off against any amount of tax payable by that supplier in respect of the taxable period in which the 1st day of October 1986 occurs, an amount equal to the tax fraction of the amount of such consideration remaining unpaid, and to the extent that it cannot be so set off, that amount shall be carried forward to the next taxable period and set off against any amount of tax payable by that supplier in respect of the next taxable period, and so on:

- (c) Where any supply to which section 84 of this Act applies and in respect of which no invoice has been issued nor any payment received prior to the 1st day of October 1986, the supplier shall, in any one taxable period ending prior to the 1st day of October 1987, set off against any amount of tax payable by that supplier in respect of that taxable period, an amount equal to the tax fraction of the portion of the consideration in money in respect of any such supply that, by virtue of section 84(3)(a) of this Act, is not subject to tax pursuant to section 8(1) of this Act, and to the extent that it cannot be so set off, that amount shall be carried forward to the next taxable period and set off against any amount of tax payable by that supplier in respect of that next taxable period, and so on:
- (d) Any payment received on or after the 1st day of October 1986 in respect of any specified supply to which paragraph (b) or paragraph (c) of this subsection applies shall, notwithstanding anything in this Act, be deemed to be consideration in money for a taxable supply made by that supplier and charged with tax pursuant to section 8(1) of this Act, and the supplier shall include as output tax, in the taxable period during which that payment has been received, an amount equal to the tax fraction of that payment:
- (e) Where and to the extent that any amount remaining unpaid to which paragraph (b) or paragraph (c) of this subsection applies is written off as a bad debt on or after the 1st day of October 1986, that amount written off shall,

notwithstanding anything in this Act, be deemed to be consideration for a taxable supply made by that supplier and charged with tax pursuant to section 8(1) of this Act, and the supplier shall include as output tax, in the taxable period during which that amount is written off as a bad debt, an amount equal to the tax fraction of that amount written off.

Section 86 was inserted, as from 3 December 1985, by section 38 Goods and Services Tax Amendment Act 1986 (1986 No 43).

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## **Taxation (Depreciation, Payment Dates Alignment, FBT, and Miscellaneous Provisions) Act 2006**

Public Act 2006 No 3  
Date of assent  
Commencement see section 2

### **1 Title**

This Act is the Taxation (Depreciation, Payment Dates Alignment, FBT, and Miscellaneous Provisions) Act 2006.

### **2 Commencement**

- (1) This Act comes into force on the date on which it receives the Royal assent, except as provided in this section.
- (2) Sections 267 and 279(6) are treated as coming into force on 1 April 1995.
- (3) Sections 274 and 278 are treated as coming into force on 1 April 2003.
- (4) Section 231 is treated as coming into force on 25 November 2003.
- (5) Sections 121 and 122 are treated as coming into force on 4 June 2004.
- (6) Section 281 is treated as coming into force on 1 July 2004.
- (7) Sections 230(1), 234, and 270 are treated as coming into force on 21 December 2004.
- (8) Sections 11(1), 12, 40, 57, 65, 80, 93, 104, 105, 143(5), 180(1), (2), and (3), 187, 191(9), (12), (21), (49), and (60), 193, 199, 202, 206, 207, 208, 210(19), 211(1) to (4) and (6) to (8), 212, 223 to 229, 237, 240, 257, 284(1) and (3), 287(4) and (5), and 303 are treated as coming into force on 1 April 2005.
- (9) Section 73 is treated as coming into force on 19 May 2005.
- (10) Sections 144(1) and (7), 146, and 191(5) are treated as coming into force on 21 July 2005.
- (11) Sections 13, 15(2) and (3), 21, 22, 23, 25, 50, 51, 53, 68, 75, 81, 83(2), 84, 85, 87, 88, 94, 95, 100, 106, 113, 116, 117(1) and (2), 120, 123, 141, 150, 188, 191(10), (15), (17), (18) to (20),

- (43), (46), (47), (53), (57), and (69), and 198 are treated as coming into force on 1 October 2005.
- (12) Section 191(2) and (72) is treated as coming into force on 21 December 2005.
- (13) Sections 8(2), 15(1), 16, 17, 28, 29 to 37, 45, 91, 92, 97, 98, 111, 125, 131 to 134, 166 to 178, 191(6), (11), (22), (31), (51), and (70), 194(1) and (2), 197(a), and 200 come into force on 1 April 2006.
- (14) Sections 7, 8(1), 14, 20, 39, 41, 44, 59, 66, 67, 83(1), 86, 110, 112, 124, 128 to 130, 142, 143(1) and (3), 145, 147(2) and (4), 148(1) and (3), 152, 153, 155, 156, 179, 180(1) and (6), 181 to 184, 185(1), 186, 191(8), (27), (28), (38), (40), (42), (52), (55), (58), and (59), 197(b), 205, and 214 come into force on 1 July 2006.
- (15) Sections 5, 42, 43, 103, 108, 117(3), 119, 191(48), (54), and (68), 210(3), (9), and (11), 211(2), (5), (7), (8)(a), and (9), 221, 222, 230(2), 254, 255, and 256 come into force on 1 October 2006.
- (16) Sections 292, 293, and 297(1)(a) come into force on 31 March 2007.
- (17) Section 180(7) comes into force on 1 April 2007.
- (18) Sections 77, 114, 115, 118, 137 to 140, 143(2) and (4), 147(1) and (3), 148(2), 149, 160 to 163, 165, 190, 191(4), (7), (16), (26), (29), (30), (44), (45), (50), (56), (61), and (65) to (67), 194(3), 204, 210(4), (5) to (7), (8), (10), (12), (14), (17), and (18), 217, 218, 241 to 251, 258 to 260, 283(4) to (9), 291, 294 to 296, and 300 come into force on 1 October 2007.
- (19) Sections 18, 19, 26, 47, 49, 127, 192, 215, 216, and 297(1)(b) come into force on 1 April 2008.
- (20) Sections 61 to 64, 101, 301, and 302 come into force on 1 August 2006.

### Part 3

#### Amendments to other Acts

##### *Goods and Services Tax Act 1985*

#### **283 Interpretation**

- (1) This section amends section 2.

- (2) *Amendment incorporated in the principal Act.*
- (3) *Amendment incorporated in the principal Act.*
- (4) *Amendment incorporated in the principal Act.*
- (5) *Amendment incorporated in the principal Act.*
- (6) *Amendment incorporated in the principal Act.*
- (7) *Amendment incorporated in the principal Act.*
- (8) *Amendment incorporated in the principal Act.*
- (9) *Amendment incorporated in the principal Act.*
- (10) Subsection (3) applies for taxable periods of a registered person that begin on or after the beginning of the person's 2007–08 income year.
- (11) Subsections (4) to (9) apply for a registered person for—
  - (a) a taxable period that begins on or after the beginning of the registered person's 2008–09 income year, if the registered person derives assessable income in that income year:
  - (b) a taxable period that begins on or after 1 April 2008, if paragraph (a) does not apply.

#### **291 Sections 15 to 15AB replaced**

- (1) *Amendments incorporated in the principal Act.*
- (2) Subsection (1) applies for a registered person for
  - (a) a taxable period that begins on or after the beginning of the registered person's income year corresponding to the 2008–09 tax year, if the registered person derives assessable income in that income year:
  - (b) a taxable period that begins on or after 1 April 2008, if paragraph (a) does not apply.

#### **296 Branches and divisions**

- (1) *Amendments incorporated in the principal Act.*
- (2) Subsection (1) applies for a registered person for
  - (a) a taxable period that begins on or after the beginning of the registered person's income year corresponding to the 2008–09 tax year, if the registered person derives assessable income in that income year:

- (b) a taxable period that begins on or after 1 April 2008, if paragraph (a) does not apply.

**297 Returns to be furnished in 2 parts for taxable period in which change in rate of tax occurs**

- (1) *Amendments incorporated in the principal Act.*
  - (2) Subsection (1)(a) applies for taxable periods ending on or after 31 March 2007.
  - (3) Subsection (1)(b) applies for a registered person for
    - (a) a taxable period that begins on or after the beginning of the registered person's income year corresponding to the 2008–09 tax year, if the registered person derives assessable income in that income year:
    - (b) a taxable period that begins on or after 1 April 2008, if paragraph (a) does not apply.
-

## **Taxation (Depreciation, Payment Dates Alignment, FBT, and Miscellaneous Provisions) Act 2006**

Public Act 2006 No 81  
Date of assent  
Commencement see section 2

### **1 Title**

This Act is the Taxation (Savings Investment and Miscellaneous Provisions) Act 2006.

### **2 Commencement**

- (1) This Act comes into force on the date on which it receives the Royal assent, except as provided in this section.
- (2) Section 209 is treated as coming into force on 30 November 1993.
- (3) Section 201 is treated as coming into force on 1 April 1995.
- (4) Section 207(2) is treated as coming into force on 26 July 1996.
- (5) Section 207(4) is treated as coming into force on 20 May 1999.
- (6) Section 206 is treated as coming into force on 1 April 2000.
- (7) Section 218(1), (3), (4), and (5) is treated as coming into force on 1 October 2001.
- (8) Section 205 is treated as coming into force on 26 March 2003.
- (9) Sections 202, 204, and 207(3) are treated as coming into force on 1 April 2003.
- (10) Section 25(1), (2), (4), (5), and (7) are treated as coming into force on 1 February 2004.
- (11) Sections 6, 12, 13, 16, 17, 20(1)(a), 27, 31, 40, 58, 59(1), 60, 62, 63, 77(4), 78(1)(a), (3), (4)(a), (6), and (7), 80(1)(c) and (2), 82, 85, 88, 94, 96, 129, 138, 139, 140, 141, 152(1) and (3), 155(3), (4), (10), (11), (17), (19)(a), (21), (22), (36), and (45), 156, 158(2)(a), 166, 167, 169(3), 170, 171, 172, 179, 183, and 218(2) are treated as coming into force on 1 April 2005.
- (12) Sections 19 and 195 are treated as coming into force on 21 June 2005.

- (13) Sections 14, 32, 33, 37, 38, 43, 48, 49, 50, 54, 55, 56, 77(3), 86, 87, 90, 91, 92(1), (2), (4), and (6), 95, 102, 147(1) and (2), 148, 155(2), (9), and (33), 159, and 163 are treated as coming into force on 1 October 2005.
- (14) Sections 22, 110, 119, 137, 155(23), and 161(2) are treated as coming into force on 1 April 2006.
- (15) Sections 34, 35, 36, 135, 136, 149, 153, 155(32), 157, 177, 186, 187, and 208 are treated as coming into force on 3 April 2006.
- (16) Sections 29, 39, 44, 45, 46, 92(3), (5), and (7), and 131(1) are treated as coming into force on 17 May 2006.
- (17) Sections 117, 132, 151, 155(24), and 178 are treated as coming into force on 1 July 2006.
- (18) Section 11 comes into force 3 months after the date on which this Act receives the Royal assent.
- (19) Sections 191 and 216 come into force on 31 March 2007.
- (20) Sections 5(1) and (2), 8(2), (3), (4), and (5), 24(1), 25(3), (6), (8), and (9), 26(1), 61(1), 64(1) to (3), 65(1) to (3), 66(1), 67(1) and (2), 68(1), 69(1) to (3), 70(1), 71(1), 72(1), 73(1), 74(1) to (3), 75(1) to (3), 76(1) to (3), 77(1), (2), and (6), 78(1)(b), (2), (4)(b), (5), and (8), 79(1), 80(1)(a) and (b), (3), (4), and (5), 81(1) and (2), 83(1), 89(1), 93(1) and (2), 99(1), 101(1) and (2), 142, 143, 144, 145(1), 155(5), (7), (13), (15), (16), (18), (19)(b), (29), (42), (44), and (46), 160, 162, 181, 189, and 193 come into force on 1 April 2007.
- (21) Sections 145(2) to (6), 146, 155(26) and (27), and 220 to 227 come into force on 1 July 2007.
- (22) Sections 4, 7, 10, 15, 18, 21, 28, 51, 97, 98, 100, 103(1), 112, 113, 114, 115, 116, 118, 120, 121, 122, 123, 124, 125, 126, 127, 128, 131(2), 133, 134, 147(3), 150, 152(2), 154, 155(20), (25), (30), (35), (37), (39), (43), and (47), 158(2)(b), 165, 176, 180, 182, 184, 185, 188, 196, 197, 198, 199, 214, 215, 219, 229, 230, 232, 233, 240, 241, 243, 244, 246, and 247 come into force on 1 October 2007.

**Part 3**  
**Amendments to other Acts and  
regulations**

*Goods and Services Tax Act 1985*

**214 Changes in taxable periods**

- (1) *Amendments incorporated in the principal Act.*
- (2) Subsection (1) applies for a registered person for—
  - (a) a taxable period that begins on or after the beginning of the registered person's income year corresponding to the 2008–09 tax year, if the registered person derives assessable income in that income year:
  - (b) a taxable period that begins on or after 1 April 2008, if paragraph (a) does not apply.

**215 When change in taxable period takes effect**

- (1) *Amendment incorporated in the principal Act.*
  - (2) Subsection (1) applies for a registered person for—
    - (a) a taxable period that begins on or after the beginning of the registered person's income year corresponding to the 2008–09 tax year, if the registered person derives assessable income in that income year:
    - (b) a taxable period that begins on or after 1 April 2008, if paragraph (a) does not apply.
-

## **Taxation (Business Taxation and Remedial Matters) Act 2007**

Public Act 2007 No 109  
Date of assent  
Commencement see section 2

### **1 Title**

This Act is the Taxation (Business Taxation and Remedial Matters) Act 2007.

### **2 Commencement**

- (1) This Act comes into force on the date on which it receives the Royal assent, except as provided in this section.
- (2) Section 284 is treated as coming into force on 1 April 1995.
- (3) Sections 286 and 287 are treated as coming into force on 1 April 1997.
- (4) Sections 241(1) and (3) and 269(1) are treated as coming into force on 1 April 1999.
- (5) Sections 281 and 282(3) are treated as coming into force on 1 April 2001.
- (6) Section 273(2), (4), and (5) are treated as coming into force on 24 October 2001.
- (7) Section 285 is treated as coming into force on 1 April 2002.
- (8) Section 269(3) is treated as coming into force on 1 April 2003.
- (9) Section 133(1) is treated as coming into force on 4 June 2004.
- (10) Section 288(3) is treated as coming into force on 16 November 2004.
- (11) Sections 6, 7, 8, 9, 10, 13, 18, 19, 22, 23, 24, 25, 35, 39, 40, 41, 54, 55, 56, 76, 77, 79, 102, 128, 154, 165, 167, 182(25), (28), (33), and (55), 185(2), 230(1) and (2), and 272(1) are treated as coming into force on 1 April 2005.
- (12) Section 129(1) is treated as coming into force on 1 July 2005.
- (13) Sections 176 and 177 are treated as coming into force on 1 April 2006.
- (14) Sections 130, 182(44), and 185(1) are treated as coming into force on 1 December 2006.

- (15) Sections 4, 16, 26, 27, 31, 32, 38, 43, 44, 45, 46, 47, 49, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 80, 81, 82, 83, 84, 85, 87, 88, 89, 90, 91, 92, 94, 95, 96, 97, 100, 104, 131, 132, 135(2), 136, 138, 140, 153, 178, 179(1) and (3), 181, 182(5), (6), (7), (8), (9), (10), (11), (12), (13), (14), (15), (16), (18), (19), (20), (22), (24), (27), (29), (30), (43), (45), (46), (47), (48)(a) and (b), (49), (50), (51), (52), (53), (54), and (56), 184, 189(2) and (5), 192, 193(1), 194(1), 202, 210, 224(1) and (4), 227(1), 228(1) and (3), 231(1), 252(2), 262(1), 295, 299, 300, 302, 304, and 305 are treated as coming into force on 1 April 2007.
- (16) Sections 156(1) and (2), 256, 258, 273(1) and (3), and 274 are treated as coming into force on 17 May 2007.
- (17) Sections 50, 51, 52, 78, 101, and 182(17), (26), and (59) are treated as coming into force on 20 June 2007.
- (18) Sections 5, 12, 28, 29, 30, 34, 75, 98, 99, 103, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 134, 135(1), 139, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 157, 158, 159, 160, 161, 162, 163, 164(2), 166(2), 168, 169, 170, 171, 172, 173, 174, 175, 179(2), 180, 182(2), (4), (23), (31), (35), (36), (37), (38), (39), (40), (41), and (42), 186, 190, 195, 196(1), (2), and (4), 207(2), (5), (6), (8), and (9), 208(1), 236, 237, 238, 239, 240, 245, 246, 247, 248, 249, and 279(1) are treated as coming into force on 1 October 2007.
- (19) Section 275 is treated as coming into force on 30 November 2007.
- (20) Sections 191, 193(2) and (3), 194(2) and (3), 196(3) and (5), 201, 203(2), 204(1), 205, 206(2) and (3), 207(1), (3), (4), (7), and (10), 208(2), 211, 212, 213, 214, 215, 216, 217, 218, 219, 222, 223, 224(2), (3), and (5), 227(2), 228(2), 231(2) to (4), 241(2), 242, 243, 244, 250(1) to (3), 251, 252(1), (3), and (4), 253, 254, 255, 257, 259, 260, 261, 262(2), 263, 264, 265, 266, 267, 269(2) and (4), 272(2), 278, 279(2), 290, 294, 307 to 318, 321 to 328, 330 to 342, 344 to 437, 438(1), 439 to 538, 540 to 549, 550(2) to (4) and (43) to (68), 551 to 553, 554(1) and (2), and 555 to 562 come into force on 1 April 2008.

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- (21) Sections 14, 15, 21, 36, 37, 137, 182(32), 183, 197(1) to (3), 198, 303, 319, 320, 329, 343, 438(2), 539, 550(42), and 554(3) come into force on 1 July 2008.
- (22) Sections 220(1), 293, 297, and 298 come into force on the earlier of the following:
- (a) a date to be fixed by the Governor-General by Order in Council:
  - (b) 1 April 2009.
- (23) Section 229 comes into force on the earlier of the following:
- (a) a date to be fixed by the Governor-General by Order in Council:
  - (b) 1 April 2010.

**Part 3**  
**Amendments to other Acts and**  
**Regulations**

*Goods and Services Tax Act 1985*

**275 Special returns**

- (1) *Amendment incorporated in the principal Act.*
  - (2) *Amendment incorporated in the principal Act.*
  - (3) Subsections (1) and (2) apply for taxable periods ending on or after 30 November 2007.
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## **Climate Change Response (Emissions Trading) Amendment Act 2008**

Public Act    2008 No 85  
Date of assent  
Commencement    see section 2

### **1    Title**

This Act is the Climate Change Response (Emissions Trading) Amendment Act 2008.

### **2    Commencement**

- (1) Sections 165 and 182 of the Climate Change Response Act 2002 (as inserted by section 50 of this Act) come into force on a date to be appointed by the Governor-General by Order in Council on the recommendation of the Minister responsible for the administration of the Climate Change Response Act 2002 made in accordance with section 53 of this Act.
- (2) Sections 77 to 80 of this Act come into force on 1 January 2009.
- (3) The rest of this Act comes into force on the day after the date on which it receives the Royal assent.

### **79    Zero-rating of goods**

- (1) *Amendments incorporated in the principal Act.*
- (2) Subsection (1) applies to supplies made on or after 1 January 2009.

### **80    Zero-rating of services**

- (1) *Amendments incorporated in the principal Act.*
- (2) Subsection (1) applies to supplies made on or after 1 January 2009.

## Contents

- 1 General
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## Notes

### **1** *General*

This is an eprint of the Goods and Service Tax Act 1985. It incorporates all the amendments to the Act as at 1 January 2009. The list of amendments at the end of these notes specifies all the amendments incorporated into this eprint since 3 September 2007. Relevant provisions of any amending enactments that contain transitional, savings, or application provisions are also included, after the Principal enactment, in chronological order.

### **2** *About this eprint*

This eprint has not been officialised. For more information about officialisation, please see “Making online legislation official” under “Status of legislation on this site” in the About section of this website.

### **3** *List of amendments incorporated in this eprint (most recent first)*

Climate Change Response (Emissions Trading) Amendment Act 2008 (2008 No 85): sections 78–80

Affordable Housing: Enabling Territorial Authorities Act 2008 (2008 No 67): section 36

Land Transport Management Amendment Act 2008 (2008 No 47): section 50(1)

Taxation (Limited Partnerships) Act 2008 (2008 No 2): section 30

Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109): sections 271 to 279

Income Tax Act 2007 (2007 No 97): section ZA 2(1)

Taxation (Savings Investment and Miscellaneous Provisions) Act 2006 (2006 No 81): sections 214, 215

Insolvency Act 2006 (2006 No 55): section 445

Reprinted as at  
1 January 2009

**Goods and Services Tax Act 1985**

Notes

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Taxation (Depreciation, Payment Dates Alignment, FBT, and Miscellaneous Provisions) Act 2006 (2006 No 3): sections 283(4)-(9), 294-297

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