ANALYSIS

1986, No. 3

An Act to amend the Income Tax Act 1976

[*27 March 1986*

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 and commencement—(1) This Act may be cited as the Income Tax Amendment Act 1986, and shall be read together with and deemed part of the Income Tax Act 1976 (hereinafter referred to as the principal Act).

(2) Except where this Act otherwise provides, this Act shall come into force on the day on which it receives the Governor-General's assent.

2. Interpretation—(1) Section 2 of the principal Act is hereby amended by repealing paragraph (b) of the definition of the expression "expenditure on account of an employee" (as inserted by section 34 (3) of the Income Tax Amendment Act (No. 2) 1985), as from its commencement, and substituting the following paragraph:

"(b) The payment by an employer of any life insurance premium on any policy of life insurance (being a policy of life insurance, other than—

"(i) A policy of life insurance that constitutes, or is part of, any specified fund, being a specified fund within the meaning of the expression 'specified fund' in section 59 (1) of this Act:

"(ii) A policy of life insurance held by or on behalf of the trustees of any superannuation category 3 scheme:

"(iii) A policy of life insurance in respect of which no part of any premium is refundable to, or convertible to cash by, an employee of the employer, or refundable to, or convertible to cash by, any other person where that other person and the employee of the employer are associated persons, and under the terms of which no benefits are payable or distributable other than—

"(A) Benefits payable or distributable as a result of the death of the employee of the employer or the spouse or any child of any such employee; or

"(B) Benefits, being additional benefits under the policy, payable or distributable as a result of an accident to, or the disease or sickness of, the employee of the employer or the spouse or any child of any such employee)—

for the benefit of an employee of the employer or for the benefit of the spouse or any child of any such employee, except where and to the extent that the said employer is a proprietary

company and the said payment is in respect of expenditure that, under section 4 (2) of this Act, is deemed to be a dividend,—".

(2) Section 2 of the principal Act is hereby further amended by omitting from the definition of the expression "expenditure on account of an employee" (as so inserted) the words "but does not include an employment related loan to which Part XB of this Act applies", and substituting the following words:
"but does not include—

"(c) An employment related loan to which Part XB of this Act applies:

"(d) A payment made by an employer that is a private company (as defined in section 2 of the Companies Act 1955) to any person who, in relation to that private company, is a major shareholder (within the meaning of the definition of the expression 'major shareholder' in section 336N (1) of this Act)".

(3) Subsection (2) of this section shall apply with respect to the tax on income derived in the income year commencing on the 1st day of April 1986 and in every subsequent year.

3. Meaning of term "dividends"—(1) Section 4 (1) of the principal Act (as amended by section 2 of the Income Tax Amendment Act (No. 3) 1985) is hereby further amended by inserting, after the words "a return of share capital or constitutes a bonus issue", the words "; and shall not, in any case, include any benefit (being a benefit that is, or that would, but for the provisions of any of paragraphs (f) to (n) of the definition of the expression 'fringe benefit' in section 336N (1) of this Act, be, a fringe benefit within the meaning of that definition) provided or granted by any private company (as defined in section 2 of the Companies Act 1955) to any person who (within the meaning of section 336N (3A) of this Act) is a shareholder in that company, not being a shareholder who (within the meaning of section 336N (1) of this Act) is, in relation to that company, a major shareholder".

(2) This section shall apply with respect to the tax on income derived in the income year commencing on the 1st day of April 1986 and in every subsequent year.

4. Meaning of term "source deduction payment"—(1) Section 6 of the principal Act is hereby amended by inserting in subsection (2) and in subsection (3), after the words "for the purposes of this Act", the words ", except Part XB,".

(2) This section shall apply with respect to the tax on income derived in the income year commencing on the 1st day of April 1986 and in every subsequent year.

5. Obligation to pay tax where objection lodged—(1) Section 34 (1) of the principal Act (as substituted by section 7 (1) of the Income Tax Amendment Act (No. 2) 1985) is hereby amended by adding to the definition of the expression "day of determination of final liability" the following paragraphs:

"(d) Where the taxpayer does not, within the period of 2 months immediately succeeding the date on which the notice of disallowance of his objection is given to him by or on behalf of the Commissioner, by notice in writing to the Commissioner, require—

"(i) That the objection be heard and determined by a Taxation Review Authority; or

"(ii) The Commissioner to state a case for the opinion of the High Court, specifying in the notice the registry of that Court in which he requires the case to be filed,—

the day on which there expires that period of 2 months:

"(e) Where, and to the extent that, an objection is allowed by the Commissioner, the day on which the notice of that allowance (to that extent) is given in writing to the taxpayer by the Commissioner:".

(2) This section shall apply with respect to any objection made to an assessment the notice of which is given on or after the 1st day of April 1985.

6. Interest on certain excess tax—(1) Section 34A (1) of the principal Act (as inserted by section 8 (1) of the Income Tax Amendment Act (No. 2) 1985) is hereby amended by omitting from paragraph (b) of the definition of the expression "qualifying tax in dispute" the words "a competent objection to the determination of the credit of tax has been made by the taxpayer", and substituting the words "an objection to the determination of the credit of tax has been made by the taxpayer, being an objection that, but for paragraph (c) of the definition of the expression "non-qualifying objection" in section 34 (1) of this Act, would be a competent objection".

(2) This section shall apply with respect to any objection made to an assessment, the notice of which was given on or after the 1st day of April 1985.

7. Rebate from tax payable by visiting experts—(1) Section 43 (1) of the principal Act is hereby amended by adding to the definition of the expression "approved" the following words:

", and approved (in the manner aforesaid) in respect of an application (for such approval) made in writing to the Commissioner where that application was or is made—

"(a) On or before the 20th day of August 1985; or

"(b) In respect of a person whose visit to New Zealand commenced on or before the 7th day of November 1985, that visit being for the purpose of the rendering by the person of services consisting of any provision or engagement of any of the kinds referred to in the definition in this subsection of the expression 'visiting expert'; or

"(c) In respect of a person whose visit to New Zealand commenced after the 7th day of November 1985, that visit being for the purpose of the rendering by the person of services, of any of the said kinds, pursuant to a binding contract entered into by the person on or before the 7th day of November 1985".

(2) This section shall be deemed to have come into force on the 20th day of August 1985.

8. Rebate in respect of gifts of money and payment of school fees—(1) Section 56A (2) of the principal Act (as inserted by section 9 (1) of the Income Tax Amendment Act (No. 2) 1977) is hereby amended by adding, after paragraph (y) (as added by section 9 (3) of the Income Tax Amendment Act (No. 2) 1985), the following paragraph:

"(z) Rotary (District 992) Charitable Trust."

(2) This section shall apply with respect to the tax on income derived in the income year commencing on the 1st day of April 1986 and in every subsequent year.

9. Special exemption in respect of life insurance premiums, and other specified contributions—(1) Section 59 (1) of the principal Act is hereby amended by omitting from the definition of the expression "policy of pension insurance" (as inserted by section 10 (1) of the Income Tax Amendment Act 1984) the words "a policy of life insurance, in relation to a taxpayer,", and substituting the words "a policy of insurance, in relation to a taxpayer, that is a policy of life insurance, or that would, if it provided for a payment or distribution, in the

circumstances, of the kind, and to the extent specified in paragraph (d) (i) of the definition of the expression "policy of life insurance" in this subsection, be a policy of life insurance, and".

(2) This section shall apply with respect to the tax on income derived in the income year that commenced on the 1st day of April 1984 and in every subsequent year.

10. Exemption of dividends from tax—(1) The principal Act is hereby amended by repealing section 63 (as amended by section 10 (1) and (2) of the Income Tax Amendment Act (No. 2) 1982 and section 33 (3) of the Income Tax Amendment Act (No. 3) 1983), and substituting the following section:

"63. (1) For the purposes of this section, the expression 'income tax', in relation to any country or territory outside New Zealand, means any tax which, in the opinion of the Commissioner, is substantially of the same nature as income tax imposed under this Part of this Act.

"(2) Subject to this section, dividends derived by any company that is resident in New Zealand or by any group investment fund (as defined in section 211A of this Act) from companies (other than from companies that are exempt from income tax in New Zealand or from building societies under the Building Societies Act 1965) or from any group investment fund (as so defined) shall be exempt from income tax in New Zealand.

"(3) Subsection (2) of this section shall not apply to—

"(a) Dividends derived by a company to which section 204 of this Act applies in respect of the business of life insurance carried on by it:

"(b) Dividends derived from any company in any case where the dividends have been allowed as a deduction under section 194 of this Act in calculating the assessable income of that company in any income year:

"(c) Dividends derived from any company that is not a New Zealand company, being dividends that—

"(i) Are distributed by that company in respect of any preference shares of that company or in respect of any shares that, in the opinion of the Commissioner, are of substantially the same nature as preference shares; and

"(ii) In relation to the amount of the payment of which an amount is or was allowable as a deduction

in calculating any liability of that company to income tax in any country or territory outside New Zealand:

"(d) Income that, but for the provisions of section 4 (1) of this Act, would not be income from dividends and that—

"(i) Is derived from any company that is not a New Zealand company; and

"(ii) In relation to the amount of the payment of which an amount is or was allowable as a deduction in calculating any liability of that company to income tax in any country or territory outside New Zealand.

"(4) For the purposes of this section, dividends derived by any company (referred to hereafter in this subsection as the specified company) that is not a New Zealand company from any other company shall, upon their distribution by the specified company to any of its shareholders, be deemed, to the extent of an amount equal to the amount of such of those dividends as—

"(a) Were distributed by that other company in respect of any preference shares (or in respect of any shares that, in the opinion of the Commissioner, are of substantially the same nature as preference shares) of that other company; and

"(b) Are dividends in relation to the distribution of which, by that other company, an amount is or was allowable as a deduction in calculating any liability of that other company to income tax in New Zealand or in any country or territory outside New Zealand; and

"(c) Are dividends in relation to the receipt of which the specified company was not liable to income tax in any country or territory outside New Zealand,—

to be dividends—

"(d) That were distributed by the specified company in respect of preference shares (or, as the case may be, in respect of shares that, in the opinion of the Commissioner, are of substantially the same nature as preference shares) of the specified company; and

"(e) In relation to the amount of the payment of which an amount is or was allowable as a deduction in calculating any liability of the specified company to income tax in any country or territory outside New Zealand.

"(5) For the purposes of this section, income derived by any company (referred to hereafter in this subsection as the overseas company) that is not a New Zealand company from any other company shall, upon payment by that overseas company to any of its shareholders, be deemed, to the extent of an amount equal to the amount of such of that income as,—

"(a) In relation to the payment thereof to that overseas company by that other company, is an amount that is or was allowable as a deduction in calculating any liability of that other company to income tax in New Zealand or in any country or territory outside New Zealand; and

"(b) In relation to the receipt of which the overseas company was not liable to income tax in any country or territory outside New Zealand,—

to be income in relation to the amount of the payment of which an amount is or was allowable as a deduction in calculating any liability of the overseas company to income tax in any country or territory outside New Zealand."

(2) The following enactments are hereby consequentially repealed:

(a) Section 10 (1) and (2) of the Income Tax Amendment Act (No. 2) 1982:

(b) Section 33 (3) of the Income Tax Amendment Act (No. 3) 1983.

(3) This section shall apply with respect to dividends and to other income derived on or after the 21st day of August 1985.

11. Profits or gains from land transactions—Section 67 (4) (d) of the principal Act is hereby amended by omitting the expression "paragraphs (a), (b)", and substituting the expression "paragraphs (a), (b), (ba)".

12. Gains and losses due to exchange variations in respect of repayment of loans—(1) Section 71 of the principal Act is hereby amended by repealing subsection (1), and substituting the following subsection:

"(1) For the purposes of this section,—

" 'Exchange variation', in relation to the repayment in whole or in part of any loan, excluding interest, means any variation, being a variation by virtue of any fluctuation in the value of the currency or currencies of one or more countries other than New Zealand relative to New Zealand currency, that occurs between—

"(a) The amount of that repayment expressed in New Zealand currency at the time at which the repayment was made; and

"(b) The amount expressed in New Zealand currency that would have been required to make that repayment on or at the later of the 8th day of August 1975 or the time at which the loan was first made:

" 'Loan' means—

"(a) In relation to money lent, to any taxpayer, on or after the 1st day of January 1974 and on or before the 22nd day of January 1985, money that—

"(i) Was lent with the consent of the Minister under the Capital Issues (Overseas) Regulations 1965 or the Overseas Investment Regulations 1974 or with the consent of the Reserve Bank under the Exchange Control Regulations 1978, as the case may require; and

"(ii) Was lent in a currency other than New Zealand currency; and

"(iii) Was expressed to be repayable in a currency other than New Zealand currency:

"(b) In relation to money lent, by any taxpayer, on or after the 1st day of January 1974 and on or before the 22nd day of January 1985, money that—

"(i) Was lent with the consent of the Reserve Bank under the Exchange Control Regulations 1978 if required; and

"(ii) Was expressed to be repayable in a currency other than New Zealand currency:

"(c) In relation to money lent, to any taxpayer, on or after the 23rd day of January 1985, money that—

"(i) Is lent in a currency other than New Zealand currency; and

"(ii) Is expressed to be repayable in a currency other than New Zealand currency:

"(d) In relation to money lent, by any taxpayer, on or after the 23rd day of January 1985, money that is expressed to be repayable in a currency other than New Zealand currency."

(2) This section shall apply with respect to the repayment, in whole or in part, of any loan made, to or by any taxpayer, on or after the 23rd day of January 1985.

13. Income derived from use or occupation of land—(1) Section 74 (2) (b) of the principal Act is hereby amended by omitting from the third proviso (as substituted by section 11 (1) of the Income Tax Amendment Act 1984) the expression "117", and substituting the expression "111A, 117,".

(2) Section 111A of the principal Act (as inserted by section 54 (1) of the Income Tax Amendment Act (No. 3) 1983) is hereby consequentially amended by omitting the words "sections 108 to 110", and substituting the words "section 74 (2) (b), sections 108 to 110,".

(3) This section shall be deemed to have come into force on the 9th day of November 1984.

14. Excess income on sale of livestock where farmer forced to quit farm, or farming business adversely affected by fire, flood, etc.—(1) Section 94 of the principal Act (as amended by section 14 of the Income Tax Amendment Act (No. 2) 1985) is hereby amended by inserting in subsection (1), after the definition of the expression "assessable excess", the following definition:

" 'Qualifying expenditure' means any expenditure of a capital nature incurred by any taxpayer—

"(a) In acquiring or installing any farming or agricultural plant or machinery (not being plant or machinery of any of the kinds referred to in subsections (1) (b) and (c) and (2) (a) to (e) of section 122 of this Act) for use wholly in a farming or agricultural business carried on by him on land in New Zealand; or

"(b) In acquiring, erecting, or extending any fodder storage building to be used wholly for the purposes of a farming business so carried on by him; or

"(c) In acquiring or planting any horticultural rootstock to be grown on the land in New Zealand on which he carries on a farming or agricultural business:".

(2) Section 94 of the principal Act (as so amended) is hereby further amended by repealing paragraph (d) of subsection (2), except the provisos, and substituting the following paragraph:

"(d) The Commissioner is satisfied that the taxpayer has, in either the first or the second income year after the income year in which the livestock was sold or otherwise disposed of,—

"(i) In any case where paragraph (a) (i) of this subsection applies, acquired other livestock or

retained progeny of his livestock for the purpose of carrying on a farming business on other land; or

"(ii) In any case where paragraph (a) (ii) of this subsection applies, acquired other livestock or retained progeny of his livestock for the purpose of replacing wholly or partly the livestock sold or otherwise disposed of; or

"(iii) In any case where the said paragraph (a) (ii) applies, incurred qualifying expenditure:".

(3) Section 94 of the principal Act (as so amended) is hereby further amended by inserting in each of the provisos to subsection (2) (d), after the words "or retaining progeny of livestock", the words "or incurring qualifying expenditure".

(4) Section 94 of the principal Act (as so amended) is hereby further amended by inserting in subsection (3), after the words "retained by the taxpayer,", in each case where they occur, the words "or the income year in which the qualifying expenditure was incurred,".

(5) Section 94 of the principal Act (as so amended) is hereby further amended by inserting, after subsection (6), the following subsections:

"(7) Subject to this section, where any taxpayer has in any income year incurred any qualifying expenditure, the Commissioner shall, in calculating the assessable income derived by the taxpayer in that income year, allow a deduction in respect of that expenditure of an amount equal to that expenditure or of an amount equal to the assessable excess that is deemed, under subsection (3) of this section, to have been derived in that income year, whichever amount is the lesser.

"(8) Subject to section 117 of this Act, where any taxpayer has been allowed a deduction under this section in respect of the cost of any farming or agricultural plant or machinery, the amount so allowed as a deduction shall be deemed, for the purposes of this Act, to be a deduction allowed in respect of the depreciation of that farming or agricultural plant or machinery and, for the purposes of sections 108 and 112 of this Act, the cost of that farming or agricultural plant or machinery shall be deemed to be reduced by an amount equal to the amount so allowed as a deduction.

"(9) Where any taxpayer has been allowed a deduction under this section in respect of the cost of any fodder storage building and that building is sold or otherwise disposed of by the taxpayer within 5 years from the date of the acquisition,

erection, or extension, as the case may be, of that building by the taxpayer, the amount derived from the sale or other disposal of that building shall be deemed to be assessable income derived by the taxpayer in the income year in which the building is sold or otherwise disposed of:

"Provided that in no case shall the amount that under this section is deemed to be assessable income exceed the cost of the building sold or otherwise disposed of, or the amount of the deduction allowed under this section in respect of the cost of that building, whichever amount is the lesser:

"Provided also that this subsection shall not apply in any case where the building is transferred from any taxpayer to any person in accordance with a matrimonial agreement.

"(10) For the purposes of this section, where any qualifying expenditure, being expenditure of a capital nature incurred in acquiring, erecting, or extending a fodder storage building, has been incurred by any person,—

"(a) The provisions of subsection (4B) of section 125 of this Act shall apply, so far as they are applicable and with any necessary modifications, as if the references in that subsection to the acquisition or installation of the asset were references to the acquisition or the erection or the extension of that fodder storage building:

"(b) The provisions of subsection (4C) of section 125 of this Act shall apply, so far as they are applicable and with any necessary modifications and in accordance with the tenor of the first proviso to subsection (9) of this section, as if the reference to any asset in respect of which, but for the allowance of a deduction under the said section 125, a deduction by way of depreciation would have been allowable under this Act, were a reference to that fodder storage building.

"(11) Every reference in this section to an income year shall, where the taxpayer furnishes a return of income under section 15 of this Act for an accounting year ending with an annual balance date other than the 31st day of March, be deemed to be a reference to the accounting year corresponding with that income year, and in every such case this section shall, with any necessary modifications, apply accordingly."

(6) This section shall apply in respect of any qualifying expenditure (as defined in section 94 (1) of the principal Act) incurred by any taxpayer on or after the 8th day of May 1985.

15. Deduction for expenditure or loss incurred in providing fringe benefits to minority shareholders—(1) The principal Act is hereby amended by inserting, after section 105, the following section:

"105A. For the purposes of this Act, any expenditure or loss incurred in any income year by any private company (as defined in section 2 of the Companies Act 1955) in or for the providing or granting of any benefit (being a benefit that is, or that would, but for the provisions of any of paragraphs (f) to (n) of the definition of the expression 'fringe benefit' in section 336N (1) of this Act, be, a fringe benefit within the meaning of that definition) to any person who (within the meaning of section 336N (3A) of this Act) is a shareholder in that company, not being a shareholder who (within the meaning of section 336N (1) of this Act) is, in relation to that company, a major shareholder, shall be deemed not to be expenditure or loss that is of a private or domestic nature and shall be deemed to be expenditure or loss of the kind referred to in section 104 of this Act."

(2) This section shall apply with respect to the tax on income derived in the income year commencing on the 1st day of April 1986 and in every subsequent year.

16. Certain deductions not permitted—(1) Section 106 (1) of the principal Act (as amended by section 15 (2) of the Income Tax Amendment Act (No. 2) 1985) is hereby amended by repealing paragraph (j), and substituting the following paragraph:

"(j) Any expenditure or loss to the extent to which it is of a private or domestic nature; and for the purposes of this paragraph any expenditure or loss to the extent to which it is incurred by any private company (as defined in section 2 of the Companies Act 1955) in or for the providing or granting of any benefit (being a benefit that is, or that would, but for the provisions of any of paragraphs (f) to (n) of the definition of the expression 'fringe benefit' in section 336N (1) of this Act, be, a fringe benefit within the meaning of that definition, and not being a benefit that constitutes monetary remuneration, and not being a benefit to the extent to which a deduction in respect of the expenditure incurred in providing that benefit is allowable under section 150 of this Act) to any person who, in relation to that company, is a major shareholder (within the

meaning of the definition of the expression 'major shareholder' in section 336N (1) of this Act) shall be deemed to be expenditure or loss that is of a private or domestic nature."

(2) This section shall apply with respect to the tax on income derived in the income year commencing on the 1st day of April 1986 and in every subsequent year.

17. Limitation of deduction for motor vehicles where insufficient records kept—(1) The principal Act is hereby amended by inserting, after section 106A (as inserted by section 15 of the Income Tax Amendment Act (No. 2) 1982), the following section:

"106B. (1) Subject to subsection (2) of this section, where the records maintained by any taxpayer in relation to any income year do not, in the opinion of the Commissioner, contain complete and accurate details relating to the distance travelled by any motor vehicle, being a motor vehicle that is a road vehicle (other than a trailer), wherever or however used, of the kind ordinarily used for the carriage of persons or the transport or delivery of goods or animals (whether or not those goods or animals are of a particular class or kind), and being a motor vehicle other than a motor vehicle all travel in which in that income year is, the Commissioner is satisfied, travel of the kind referred to in paragraph (a) of this subsection,—

"(a) In travel undertaken in that income year in the gaining or producing of the assessable income of the taxpayer (including travel in private use or enjoyment, in that income year, that constitutes the provision by the taxpayer of any fringe benefit, within the meaning of the definition of the expression 'fringe benefit' in section 336N (1) of this Act, to or for any employee in relation to whom the taxpayer is an employer in that income year):

"(b) In total in all travel by that motor vehicle in that income year,—

the amount—

"(c) Of the expenditure incurred by the taxpayer in respect of or in relation to that motor vehicle, being the expenditure that, but for this section, would, if the whole of the travel in that motor vehicle in that income year were travel undertaken wholly and exclusively in the gaining or producing of the assessable income of the taxpayer, be allowed under

this Act as a deduction in calculating the assessable income derived by the taxpayer in that income year; and

"(d) Of the allowance by way of depreciation in respect of that motor vehicle, being the allowance that, but for this section, would, if the whole of the travel in that motor vehicle in that income year were travel undertaken wholly and exclusively in the production of the assessable income of the taxpayer, be allowed under this Act as a deduction in calculating the assessable income derived by the taxpayer in that income year,—

that, where the motor vehicle is used in the income year in the gaining or producing of the assessable income of the taxpayer, may be allowed as a deduction in calculating that assessable income shall, notwithstanding any other provision of this Act, not exceed the lesser of—

"(e) Twenty-five percent of the said expenditure and of the said allowance by way of depreciation:

"(f) Such percentage, being a percentage less than 25, of the said expenditure and of the said allowance by way of depreciation as the Commissioner determines in any case where, in his opinion, of the distance travelled in total in all travel by the motor vehicle in the income year, the distance travelled in travel of the kind referred to in paragraph (a) of this subsection was less than 25 percent;—

and no other deduction in respect of or in relation to that expenditure or, as the case may be, that allowance by way of depreciation shall be allowed under this Act."

"(2) For the purposes of this section, the expression 'taxpayer', in relation to any income year, means—

"(a) Any person other than a company and other than a person as an employee:

"(b) Any company that is a private company (within the meaning of section 2 of the Companies Act 1955) in relation to which any shareholder thereof (that shareholder being other than a company) is, in relation to any quarter (as defined in section 336N (1) of this Act), the whole or any part of which is within the income year, a major shareholder within the meaning of the definition of the expression 'major shareholder' in the said section 336N (1).

"(3) Every reference in this section to an income year shall, where the taxpayer furnishes a return of income under

section 15 of this Act for an accounting year ending with an annual balance date other than the 31st day of March, be deemed to be a reference to the accounting year corresponding with that income year, and in every such case this section shall, with any necessary modifications, apply accordingly."

(2) This section shall apply with respect to the tax on income derived in the income year commencing on the 1st day of April 1986 and in every subsequent year.

18. Repairs, maintenance, and depreciation—(1) Section 108 (1) of the principal Act (as amended by section 54 (2) of the Income Tax Amendment Act 1983) is hereby amended by adding the following proviso:

"Provided further that the Commissioner shall not allow any deduction under this section in respect of any repair, alteration, or depreciation of any asset where, and to the extent that, that asset is used by a private company (as defined in section 2 of the Companies Act 1955) in the providing of a benefit (being a benefit that is, or that would, but for the provisions of paragraphs (f) to (n) of the definition of the expression 'fringe benefit' in section 336N (1) of this Act, be, a fringe benefit within the meaning of that definition) to any person who, in relation to the private company, is a major shareholder (within the meaning of the definition of the expression 'major shareholder' in section 336N (1) of this Act)."

(2) This section shall apply with respect to the tax on income derived in the income year commencing on the 1st day of April 1986 and in every subsequent year.

19. Allocation of expenditure incurred in repair of flood damage to certain land used for farming or agricultural purposes—The principal Act is hereby amended by inserting, after section 133, the following section:

"133A. (1) For the purposes of this section,—

" 'Specified adverse event' means the event, being storm or flood that occurred during the month of July 1985, that, under and for the purposes of section 94 of this Act, the Minister declared on the 27th day of August 1985 to be an adverse event:

" 'Specified area' means the locality, within New Zealand, to which the specified adverse event relates:

" 'Specified income year' means the income year that ended on the 31st day of March 1985.

"(2) In any case where a farming business carried on by any taxpayer was adversely affected by the specified adverse event and the taxpayer has, in any one or more of the 3 income

years immediately succeeding the specified income year, incurred in that business any expenditure (being expenditure that is deductible under this Act) in the repair of storm or flood damage caused by the specified adverse event, the taxpayer shall, if he so elects by notice in accordance with subsection (3) of this section, which election shall be irrevocable, instead of claiming a deduction of the total amount of that expenditure in calculating the assessable income from farming derived by him in the income year in which the said expenditure is incurred, be entitled to claim, to such extent as he specifies in the notice, that the whole or part of that expenditure be deducted in calculating the assessable income from farming derived by him in the specified income year and not in any other income year, and the Commissioner shall thereupon allow that deduction and for that purpose may make or amend accordingly any assessment.

"(3) Every notice of election under subsection (2) of this section shall be in writing and shall be given to the Commissioner within the time within which the taxpayer is required to furnish his return of income for the income year in which the expenditure is incurred, or within such further time as the Commissioner, in his discretion, may allow in any case or class of cases.

"(4) Nothing in sections 126 and 127 of this Act shall apply in relation to any expenditure to the extent that in respect of that expenditure an election is made under this section.

"(5) If any question arises under this section as to whether—

"(a) Any land is within the specified area; or

"(b) Any damage was caused by the specified adverse event,—

a certificate of a duly authorised officer of the Ministry of Agriculture and Fisheries as to the situation of that land or, as the case may be, as to the cause of the damage shall be final and conclusive evidence for the purposes of this section.

"(6) Every reference in this section to an income year shall, where the taxpayer furnishes a return of income under section 15 of this Act for an accounting year ending with an annual balance date other than the 31st day of March, be deemed to be a reference to the accounting year corresponding with that income year, and in every such case this section shall, with any necessary modifications, apply accordingly."

20. Expenditure on scientific research—(1) The principal Act is hereby amended by repealing section 144, and substituting the following section:

"144. In calculating the assessable income derived by any taxpayer during any income year, the Commissioner may allow such deduction as he thinks fit in respect of any expenditure, incurred by the taxpayer during that income year, in connection with scientific research carried on or carried out for the purpose of the deriving, by the taxpayer, of assessable income, except so far as the expenditure relates to an asset in respect of which a deduction for depreciation is allowable under this Act."

(2) This section shall apply with respect to the tax on income derived in the income year that commenced on the 1st day of April 1985 and in every subsequent year.

21. Export-market development and tourist-promotion incentive—(1) Section 156F (2) of the principal Act (as inserted by section 18 of the Income Tax Amendment Act 1979) is hereby amended—

(a) By omitting the words "terminating date", and substituting the words "31st day of March 1987":

(b) By omitting the expression "67.5 percent", and substituting the expression "69 percent".

(2) Section 156F of the principal Act (as so inserted) is hereby further amended by inserting, after subsection (2), the following subsections:

"(2A) Subject to this section, where a taxpayer has in relation to the income year commencing on the 1st day of April 1987 incurred any export-market development expenditure or, as the case may be, tourist-promotion expenditure that, if it were not for subsection (6) of this section, would be allowable as a deduction in calculating the assessable income derived by that taxpayer in that income year, there shall be allowed to that taxpayer a credit of tax equal to 64 percent of the amount of that expenditure.

"(2B) Subject to this section, where a taxpayer has in relation to the income year commencing on the 1st day of April 1988 incurred any export-market development expenditure or, as the case may be, tourist-promotion expenditure that, if it were not for subsection (6) of this section, would be allowable as a deduction in calculating the assessable income derived by that taxpayer in that income year, there shall be allowed to that taxpayer a credit of tax equal to 58 percent of the amount of that expenditure.

"(2C) Subject to this section, where a taxpayer has in relation to the income year commencing on the 1st day of April 1989 incurred any export-market development expenditure or, as

the case may be, tourist-promotion expenditure that, if it were not for subsection (6) of this section, would be allowable as a deduction in calculating the assessable income derived by that taxpayer in that income year, there shall be allowed to that taxpayer a credit of tax equal to 53 percent of the amount of that expenditure."

(3) Section 156F (6) of the principal Act (as so inserted) is hereby amended by inserting, after the words "subsection (2)", the words "or subsection (2A) or subsection (2B) or subsection (2C)".

(4) Subsection (3) of this section shall apply on and from the first day of the income year commencing on the 1st day of April 1987.

22. Export-market development activities incentive for self-employed taxpayers—(1) Section 156G (1) of the principal Act (as inserted by section 18 of the Income Tax Amendment Act 1979) is hereby amended by inserting in the definition of the expression "export-market development activities", after the words "activities personally performed by the taxpayer", the words ", on his own behalf or on behalf of any partnership of which the taxpayer is a member,".

(2) Section 156G (2) of the principal Act (as inserted by section 18 of the Income Tax Amendment Act 1979) is hereby amended—

(a) By omitting the words "terminating date", and substituting the words "31st day of March 1987":

(b) By omitting the expression "67.5 percent", and substituting the expression "69 percent".

(3) Section 156G of the principal Act (as so inserted) is hereby further amended by inserting, after subsection (2), the following subsections:

"(2A) Subject to this section, where, in the income year commencing on the 1st day of April 1987 a taxpayer, not being a company, who derives assessable income from a business in New Zealand has engaged in export-market development activities, there shall be allowed to that taxpayer a credit of tax equal to 64 percent of the value of the time spent by the taxpayer in those activities in that income year.

"(2B) Subject to this section, where, in the income year commencing on the 1st day of April 1988 a taxpayer, not being a company, who derives assessable income from a business in New Zealand has engaged in export-market development activities, there shall be allowed to that taxpayer a credit of tax equal to 58 percent of the value of the time spent by the taxpayer in those activities in that income year.

"(2C) Subject to this section, where, in the income year commencing on the 1st day of April 1989 a taxpayer, not being a company, who derives assessable income from a business in New Zealand has engaged in export-market development activities, there shall be allowed to the taxpayer a credit of tax equal to 53 percent of the value of the time spent by the taxpayer in those activities in that income year."

(4) Subsection (1) of this section shall apply on and from the first day of the income year that commenced on the 1st day of April 1985.

23. Refunds from income equalisation reserve accounts—(1) Section 179 of the principal Act is hereby amended by repealing subsection (2), and substituting the following subsections:

"(2) Subject to this section and to sections 180 to 185 of this Act, no refunds shall be made of any amount that has been deposited under section 176 of this Act less than 12 months before the date of the application for the refund.

"(2A) Notwithstanding subsection (2) of this section, a refund shall be made of any amount deposited under section 176 of this Act for 6 months or more before the date of the application for a refund in any case where the Commissioner is satisfied that the refund is required—

"(a) To enable the taxpayer to undertake, immediately after the refund is made, planned development or maintenance work in relation to his business (being either a farming or agricultural business or the business of fishing) or forestry operations; or

"(b) To enable the taxpayer to purchase, immediately after the refund is made, livestock for use in his farming business; or

"(c) To avoid the suffering by the taxpayer of serious hardship; or

"(d) For any other purpose or purposes for which the Commissioner, in his discretion, may at any time determine in any case or class of cases the refund should so be made.

"(2B) Notwithstanding subsection (2) of this section, a refund shall be made of any amount deposited under section 176 of this Act, whether or not so deposited for 6 months or more before the date of the application for a refund, in any case where the Commissioner is satisfied that the refund is required—

"(a) To enable the taxpayer to undertake, immediately after the refund has been made, development or repair work, in relation to his business (being either a farming or agricultural business or a business of fishing) or forestry operations, where the need to undertake that work was unforeseen at the time the deposit was made and results from the occurrence or further occurrence or continuation of the occurrence of an event that has been declared by the Minister to be an adverse event for the purposes of section 94 of this Act; or

"(b) To enable the taxpayer to purchase, immediately after the refund is made, livestock for use in his farming business, that livestock being in replacement of livestock sold or otherwise disposed of or lost as a result of the occurrence of an event that has been declared by the Minister to be an adverse event for the purposes of section 94 of this Act, or disposed of or lost as a result of sickness or disease of the livestock; or

"(c) To avoid the suffering by the taxpayer of serious hardship; or

"(d) For any other purpose or purposes for which the Commissioner, in his discretion, may at any time determine in any case or class of cases the refund should so be made."

(2) This section shall be deemed to have come into force on the 1st day of April 1985 and shall apply on and from that date.

24. Airport operators—(1) The principal Act is hereby amended by inserting, after section 197, the following section:

"197A. (1) This section shall apply notwithstanding anything in this Act.

"(2) For the purposes of this section,—

" 'Activities as an airport operator', in relation to an airport operator and to any joint venture agreement, means any activity undertaken for the purposes of the joint venture agreement by the airport operator in establishing, improving, maintaining, operating, or managing any airport (including the approaches, buildings, and other accommodation, and the equipment and appurtenances for the airport):

" 'Airport' has the same meaning as in section 2 of the Airport Authorities Act 1966:

" 'Airport asset', in relation to any airport operator, means—

"(a) Any asset that, in terms of or, as the case may be, pursuant to the joint venture agreement that relates to the airport operator, the airport authority that is a party to the venture agreement acquires or has acquired, or agrees to use or has agreed to use, or is given the power to use or has been given the power to use, for the purposes of the activities that in relation to the airport operator are activities as an airport operator, and that the airport authority has not disposed of, or ceased to agree to use, or ceased to have the power to use, as the case may be, for those purposes (not being an asset in respect of which, where that acquisition, agreement to use, or power to use, as the case may be, is an acquisition, agreement, or power pursuant to a lease or an agreement to lease, that lease or agreement to lease is other than a specified lease in terms of section 222A of this Act):

"(b) Any asset that is owned by any person for the purposes of a depreciation sinking fund in respect of any asset that is an airport asset within the meaning of this definition:

"(c) Any asset that is owned by any person for the purposes of a loan redemption sinking fund in respect of any loan, being a loan the interest payments in respect of which are, pursuant to the joint venture agreement that relates to the airport operator, a charge against so much of the joint income (of the parties to the joint venture agreement) as has not been allocated to or, as the case may be, distributed to any of the said parties:

"(d) Any asset that the airport operator has purchased or otherwise acquired with funds that are, or, as the case may be, in exchange for property that is, acquired in the carrying on of activities as an airport operator and not allocated or, as the case may be, distributed to any of the parties to the joint venture agreement that relates to the airport operator:

" 'Airport authority' has the same meaning as in section 2 of the Airport Authorities Act 1966:

" 'Airport operator' means the Crown, acting by and through the Minister of Civil Aviation and

Meteorological Services, and any local authority that is an airport authority, in their respective capacities as joint venturers pursuant to a joint venture agreement:

" 'Joint venture agreement', in relation to any airport operator, means any agreement made between an airport authority and the Crown acting by and through the Minister of Civil Aviation and Meteorological Services pursuant to section 12 of the Civil Aviation Act 1964; and includes any other agreement of a similar nature made between the Crown and any airport authority, whether or not the airport authority was, at the time the agreement was made, an airport authority, and whether or not the agreement was made before the commencement of the Civil Aviation Act 1964.

"(3) For the purposes of this Act,—

"(a) An airport operator shall be deemed to be a company; and

"(b) The parties to the joint venture agreement pursuant to which an airport is operated shall be deemed to hold shares in the airport operator which operates that airport in the proportions in which, in terms of the joint venture agreement, the profits from the operation of that airport, after taking into account any adjustments in respect of previous years, are to be shared between those parties; and

"(c) Activities as an airport operator shall be deemed to be a business; and

"(d) An airport operator shall be deemed to own every asset that, in relation to that airport operator, is an airport asset; and

"(e) An airport operator shall be deemed to be a person that is separate from the Crown and every airport authority and every other person; and

"(f) An airport operator shall be deemed to be neither a public authority nor a local authority; and

"(g) An airport operator shall be deemed not to be a mutual association for the purposes of section 199 of this Act; and

"(h) Where and to the extent that any party to a joint venture agreement provides funds for any purpose that relates to activities that, in relation to the airport operator that operates the airport to which the joint venture agreement relates, are activities as an airport

operator and those funds are expressly agreed by the parties to that joint venture agreement to be advanced for the purpose of those activities as an airport operator, and those funds are provided for a consideration that requires a provision, in the nature of interest, to be made by the airport operator for the benefit of the party that so provided the funds,—

"(i) The funds so provided shall be deemed to be money borrowed by the airport operator; and

"(ii) The funds so provided shall be deemed to be capital employed by the airport operator; and

"(iii) That provision shall be deemed to be expenditure or, as the case may be, a loss in the nature of interest.

"(4) For the purposes of this Act, where an airport operator is deemed, under subsection (3) of this section, to own an asset, that asset shall be deemed to be acquired or to have been acquired by the airport operator at the time at which the airport operator acquires or acquired (otherwise than by way of purchase), or agrees to use or agreed to use, or commences to have the power to use or commenced to have the power to use, as the case may be, that asset and the airport operator shall be deemed to incur or to have incurred an amount of expenditure, in acquiring that asset, equal to the amount of the market value of that asset at that time.

"(5) In any case where an airport operator has purchased an asset and in any case where subsection (4) of this section applies, in calculating the assessable income of the airport operator the amount of any deduction allowed in respect of the depreciation of the asset shall be calculated with reference to the amount of the expenditure that, on or before the 31st day of March 1986, the airport operator incurred or is deemed, under that subsection, to have incurred in acquiring that asset reduced by every amount of depreciation that, had that asset been used in the production of the assessable income of the airport operator in the income year in which the asset was purchased or, as the case may be, was, under that subsection, deemed to have been acquired and in every subsequent income year ending on or before the 31st day of March 1986, would have been allowed by the Commissioner, under section 108 of this Act, in calculating that assessable income:

"Provided that where that asset is a building, the Commissioner shall, in determining the amount of any deduction allowable under section 108 of this Act in respect

of the depreciation of that asset, have regard to the amount of the expenditure that the airport operator incurred or, as the case may be, is deemed, under the said subsection (4), to have incurred in acquiring that asset.

"(6) For the purposes of this Act, where any asset that, in relation to an airport operator, is an airport asset, ceases, otherwise than by reason of its disposal by sale, to be an airport asset that asset shall be deemed to have been sold by the airport operator, on the day on which it so ceased to be an airport asset, for a price equal to the amount of its market value on that day.

"(7) Notwithstanding anything in this Act, in calculating the assessable income derived by an airport operator from any source no deduction shall be allowed in respect of any expenditure or loss, or of any provision that (under subsection (3) (h) of this section) is deemed to be expenditure or, as the case may be, a loss in the nature of interest, to the extent that that expenditure, loss, or provision, as the case may be, is, in terms of the joint venture agreement that relates to the airport operator, a charge against any part of the joint income (of the parties to the joint venture agreement) that has been allocated to or, as the case may be, distributed to any of the said parties.

"(8) Section 10 of this Act shall not apply with respect to the income derived by an airport operator from activities that, in relation to that airport operator, are activities as an airport operator.

"(9) If any question arises as to—

"(a) The market value of any asset for the purposes of subsection (4) of this section:

"(b) The cost of any airport asset:

"(c) The time at which an airport operator acquired or agreed to use or commenced to have the power to use any asset,—

it shall be determined—

"(d) By agreement between the airport operator and the Commissioner; or

"(e) In default of such agreement, by the Commissioner."

(2) This section shall apply with respect to the tax on income derived in the income year commencing on the 1st day of April 1986 and in every subsequent year.

25. Co-operative dairy, milk marketing, and pig marketing companies—(1) The principal Act is hereby amended by repealing the following provisions:

(a) Section 201 (2) (e) (i):
(b) Section 202 (3) (e) (i):
(c) Section 203 (3) (e) (i).

(2) This section shall come into force on the 1st day of April 1986.

26. Trustees of non-exempt superannuation schemes—(1) Section 225 of the principal Act (as substituted by section 39 (1) of the Income Tax Amendment Act (No. 2) 1982) is hereby amended by repealing subsection (6), and substituting the following subsection:

"(6) Where contributions received by the trustee of a non-exempt superannuation scheme are invested in whole or in part in—

"(a) A superannuation policy; or

"(b) A non-exempt superannuation scheme,—

the income arising in any income year from that investment of those contributions shall be deemed not to be income derived by that trustee."

(2) This section shall apply with respect to the tax on income derived in the income year that commenced on the 1st day of April 1983 and in every subsequent year.

27. Statements to be delivered to Commissioner—(1) The principal Act is hereby amended by repealing section 316, and substituting the following section:

"316. (1) Every person who in any month makes deductions of non-resident withholding tax from payments consisting of non-resident withholding income, or pays to the Commissioner any amounts in respect of the non-resident withholding tax in relation to dividends in accordance with section 313 of this Act, shall, not later than the 20th day of the month next after the month in which he has made any such deductions or any such payments to the Commissioner, deliver to the Commissioner a statement in a form authorised by the Commissioner showing such particulars as are prescribed in that statement of the non-resident withholding income and of the non-resident withholding tax relating thereto.

"(2) The Commissioner may—

"(a) Extend the time for delivery of the statement referred to in subsection (1) of this section in such cases and to such extent as he thinks fit:

"(b) For the purposes of meeting the special circumstances of any case or class of cases and upon such terms and conditions as he, in his discretion, requires, determine that, in relation to any person,

subsection (1) of this section shall apply as if the reference therein to any month were a reference to any year and as if the reference to the 20th day of the month next after the month in which the person has made any such deductions or any such payments to the Commissioner were a reference to the 20th day of June next after the end of the year in which the person has made any such deductions or any such payments to the Commissioner."

(2) This section shall apply with respect to every deduction of non-resident withholding tax from payments consisting of non-resident withholding income, and with respect to every payment of an amount in respect of non-resident withholding tax in relation to dividends in accordance with section 313 of the principal Act, made on or after the 1st day of April 1986.

28. Interpretation—(1) Section 336A of the principal Act (as inserted by section 17 (1) of the Income Tax Amendment Act 1984 and amended by sections 2 (1), 2 (6), and 4 (6) of the Income Tax Amendment Act 1985) is hereby amended—

(a) By omitting from item c of the definition of the expression "net national superannuation" the words "received by him in respect of the income year", and substituting the words "received by him in the income year":

(b) By inserting in the definition of the expression "specified income", after the words "means all the", the word "assessable":

(c) By inserting in paragraph (a) of the definition of the expression "standard deduction entitlement", after the words "2 percent of the", the word "gross".

(2) Section 336A of the principal Act (as so inserted and amended) is hereby further amended by adding to the definition of the expression "standard deduction entitlement" the following proviso:

"Provided that in any case where that national superannuitant is or is to be allowed a deduction in that income year pursuant to section 105 (2) (b) of this Act, his standard deduction entitlement shall, notwithstanding anything in paragraph (a) or paragraph (b) or paragraph (c) of this definition, be nil:".

(3) This section shall apply to the national superannuitant surcharge in respect of the other income of every national superannuitant for the income year that commenced on the 1st day of April 1985 and for every subsequent year.

29. Determination of "other income"—(1) Section 336B (1) of the principal Act (as inserted by section 17 (1) of the Income Tax Amendment Act 1984 and amended by sections 2 (2) and 2 (3) of the Income Tax Amendment Act 1985) is hereby amended by omitting from items b and d the words "respect of".

(2) Section 336B (2) of the principal Act (as inserted by section 17 (1) of the Income Tax Amendment Act 1984 and amended by sections 2 (4) and 2 (5) of the Income Tax Amendment Act 1985) is hereby amended—

(a) By inserting in paragraph (a), after the word "commencing", the words ", for the first time,":

(b) By omitting from items e and g in both places where they occur the words "respect of ".

(3) Section 336B of the principal Act (as so inserted and amended) is hereby further amended by repealing subsection (3), and substituting the following subsection:

"(3) Where the Commissioner is satisfied that the other income of a national superannuitant included income which was received by him within a reasonable period after the date on which he commenced or, as the case may be, before the date on which he ceased to be entitled to receive national superannuation, the Commissioner may determine that, for the purposes of this Part of this Act, that income was received on a date other than the date on which it was received:

"Provided that this subsection shall not apply unless the Commissioner is satisfied that—

"(a) The income would, in the ordinary course, have been received on or about the day on which, he determines pursuant to this section, that income was received; and

"(b) No arrangements have been made by the national superannuitant with a view to his affairs being deliberately so arranged or conducted that this subsection would, but for this paragraph, have effect more favourably in relation to that national superannuitant than would otherwise have been the case; and

"(c) It is in the interests of the national superannuitant that it should apply."

(4) This section shall apply to the national superannuitant surcharge in respect of the other income of every national superannuitant for the income year that commenced on the 1st day of April 1985 and for every subsequent year.

30. Election by national superannuitant in respect of payment of surcharge—(1) Section 336F (2) of the principal Act (as inserted by section 17 (1) of the Income Tax Amendment Act 1984) is hereby amended by inserting in paragraph (a) (i), after the word "gross", the word "national".

(2) Section 336F (2) of the principal Act (as so inserted and amended) is hereby amended by repealing subparagraph (ii) of paragraph (b), and substituting the following subparagraph:

"(ii) By way of deductions in accordance with section 336J of this Act from source deduction payments (other than national superannuation) made to him in that income year:".

(3) This section shall apply to the national superannuitant surcharge in respect of the other income of every national superannuitant for the income year that commenced on the 1st day of April 1985 and for every subsequent year.

31. National superannuitant to estimate other income—(1) Section 336H (2) of the principal Act (as inserted by section 17 (1) of the Income Tax Amendment Act 1984) is hereby amended by omitting the expression ", together with his tax code declaration,".

(2) Section 336H (3) of the principal Act (as inserted by section 17 (1) of the Income Tax Amendment Act 1984) is hereby amended—

(a) By omitting the words "and the tax code declaration":

(b) By inserting, after the word "determine", the words "in accordance with the tenor of this Part of this Act".

(3) This section shall apply to the national superannuitant surcharge in respect of the other income of every national superannuitant for the income year that commenced on the 1st day of April 1985 and for every subsequent year.

32. Surcharge paid as provisional tax—(1) Section 336I (2) of the principal Act (as inserted by section 17 (1) of the Income Tax Amendment Act 1984 and amended by section 3 (4) of the Income Tax Amendment Act 1985) is hereby amended—

(a) By inserting, after the words "any amount payable as the surcharge", the words "(other than by way of deductions from source deduction payments)":

(b) By omitting the words "expected specified income of that national superannuitant for that income year reduced by his specified exemption", and substituting the words "specified income of that national

superannuitant for the income year immediately preceding that income year reduced by his specified exemption for that income year":

(c) By inserting in the proviso, before the word "expected", the word "his".

(2) This section shall apply to the national superannuitant surcharge in respect of the other income of every national superannuitant for the income year that commenced on the 1st day of April 1985 and for every subsequent year.

33. Application of surcharge codes specified in tax code declarations—(1) Section 336L (1) of the principal Act (as inserted by section 17 (1) of the Income Tax Amendment Act 1984 and amended by section 4 (3) of the Income Tax Amendment Act 1985) is hereby further amended by omitting the words "The surcharge code", and substituting the words "Subject to section 336K of this Act, the surcharge code".

(2) This section shall apply to the national superannuitant surcharge in respect of the other income of every national superannuitant for the income year that commenced on the 1st day of April 1985 and for every subsequent year.

34. Interpretation—(1) The definition of the expression "fringe benefit" in section 336N (1) of the principal Act (as inserted by section 34 (1) of the Income Tax Amendment Act (No. 2) 1985) is hereby amended—

(a) By inserting in paragraph (h), after the words "organisation, trust, or fund", the words "(not being a local authority and not being a public authority)":

(b) By omitting from paragraph (i) the words "The Commissioner", and substituting the words "Any benefit to the extent to which the Commissioner":

(c) By omitting from paragraph (j) (vii) the word "Any", and substituting the words "It is a":

(d) By inserting in paragraph (j) (x), after the words "where the employer and the person are associated persons, and not being, in any case", the words ", a person".

(2) The definition of the expression "fringe benefit" in section 336N (1) of the principal Act (as so inserted) is hereby further amended by repealing paragraph (f), and substituting the following paragraph:

"(f) Any benefit provided or granted by a private company to a person who, in relation to that private company, is a major shareholder:".

(3) The definition of the expression "fringe benefit" in section 336N (1) of the principal Act (as so inserted) is hereby further amended by repealing subparagraphs (ii), (iii), and (iv) of paragraph (j), and substituting the following subparagraphs:

"(ii) It is income of the employee that is exempt from tax in accordance with Part IV of this Act, not being income that consists of an allowance that, or such part of an allowance as, is exempt from tax in terms of a determination made by the Commissioner under section 73 (2) of this Act where and to the extent that the allowance or, as the case may be, the part thereof so exempted was provided by the employer of the employee to enable the employee to provide a benefit to any person other than the employee:

"(iii) If it had been provided by means of a cash payment, it would have been income of the employee (other than interest and other than dividends) that is exempt from tax in accordance with Part IV of this Act, not being income that consists of an allowance that, or such part of an allowance as, is exempt from income tax in terms of a determination made by the Commissioner under section 73 (2) of this Act where and to the extent that the allowance or, as the case may be, the part thereof so exempted was provided by the employer of the employee to enable the employee to provide a benefit to any person other than the employee:

"(iv) It removes a need which would otherwise exist for the employer of the employee to pay to the employee an allowance, being an allowance that, the Commissioner is satisfied, would, had it so been paid,—

"(A) Have been exempt from tax in terms of a determination made by him under section 73 (2) of this Act; and

"(B) Have been paid otherwise than to enable the employee to provide a benefit to any person other than the employee:".

(4) Section 336N (1) of the principal Act (as so inserted) is hereby further amended by inserting, in their appropriate alphabetical order, the following definitions:

" 'Major shareholder', in relation to a private company and to any quarter, means any person who, at the end of that quarter,—

"(a) Owns, or has in any way the power to control (whether directly or indirectly), or has the right to acquire, 10 percent or more of the ordinary shares of the private company:

"(b) Owns, or has in any way the power to control (whether directly or indirectly), or has the right to acquire, 10 percent or more of the voting rights of the private company:

"(c) Has by any other means whatsoever 10 percent or more of the control of the private company:

" 'Minibus' means a motor vehicle, designed exclusively or principally for the carriage of persons, the interior of which contains either—

"(a) Three seats, each of which is designed for the seating of 2 or more adult persons and each of which is permanently affixed to the motor vehicle and is neither collapsible nor capable of being folded down; or

"(b) Contains more than 3 seats, of which not less than 3 are each designed for the seating of 2 or more adult persons and are each permanently affixed to the motor vehicle and are each neither collapsible nor capable of being folded down:

" 'Private company' has the same meaning as in section 2 of the Companies Act 1955:".

(5) Section 336N (1) of the principal Act (as so inserted) is hereby further amended by repealing the definition of the expression "work related vehicle", and substituting the following definition:

" 'Work related vehicle', in relation to any day, means a motor vehicle (not being a motor vehicle that is a motorcar)—

"(a) On which is displayed, by means of a prominent display that is permanently affixed to the exterior of the motor vehicle,—

"(i) Where the motor vehicle is owned by the employer, the name, logo, acronym, or other similar identification, of the employer, regularly used by him in the carrying on of his activity or undertaking; or

"(ii) Where the motor vehicle is rented from any person, the name, logo, acronym, or other similar identification, of the employer or of that person, regularly used by the

employer or, as the case may be, that person in the carrying on of his activity or undertaking; and

"(b) In relation to which any driver thereof during that day (that driver being an employee of an employer) is provided, whether directly or indirectly, by the employer of the employee with a benefit that consists of private use or enjoyment or availability for private use or enjoyment in or for travel that, the Commissioner is satisfied, is of either or both of the following kinds and is of no other kind:

"(i) Travel, in proceeding to or from the home of the employee, being the said driver, in the course of and as a condition of the performing, during the said day, of the activity or the activities that in relation to the employee and to the employer of the employee constitutes or, as the case may be, constitute the employment of the employee:

"(ii) Travel by the employee, being the said driver, otherwise than in the course of proceeding to or from the home of the employee, in the course of the performing during the said day of the said activity or the said activities where the private use or enjoyment or the availability for private use or enjoyment, of which the said benefit consists, arises incidentally in the course of the said performance."

(6) Section 336N of the principal Act (as so inserted) is hereby amended by inserting, after subsection (2), the following subsection:

"(2A) For the purposes of the definition of the expression 'major shareholder' in subsection (1) of this section, in relation to any person (referred to in paragraph (a) of this subsection as the specified shareholder) who owns, or has in any way the power to control (whether directly or indirectly), or has the right to acquire, any of the ordinary shares or voting rights of a private company,—

"(a) Any interest in that private company that is held by—

"(i) Any person who is a relative of the specified shareholder:

"(ii) Any nominee of any person who, in relation to the specified shareholder, is a relative:

"(iii) Any nominee of the specified shareholder—

shall be deemed to be held by the specified shareholder:

"(b) Where any shares or voting rights of any company (referred to hereafter in this paragraph as the specified company) are owned or controlled by another company, those shares or voting rights shall be deemed to be owned or, as the case may be, controlled by the shareholders of that other company, and, where any shares or voting rights of that other company are owned or controlled by any further company, the shares or voting rights of the specified company shall be deemed to be owned or controlled by the shareholders of that further company, and so on:

"(c) The expression 'nominee', in relation to a person and to any private company, includes any other person who may be required to exercise his voting rights in relation to that private company in accordance with the direction of that first-mentioned person, or who holds shares in that private company directly or indirectly on behalf of the first-mentioned person:

"(d) The percentage of any shares or of the voting rights in any private company that any person has the power to control at the end of any quarter shall be determined by the Commissioner, and—

"(i) In determining that percentage, the Commissioner shall disregard, as if it had not occurred, any alteration in that percentage where, and to the extent that, in his opinion, the alteration is of a temporary nature and has or purports to have the purpose or effect of in any way defeating the intent and application of this Part of this Act:

"(ii) In determining the percentage of the ordinary shares that any person owns, or has the power to control, or has the right to acquire, at the end of any quarter, the Commissioner shall disregard all shares in the company that bear a fixed rate of dividend only."

(7) Section 336N (3) of the principal Act (as so inserted) is hereby amended by adding the following proviso:

"Provided that where the employer of the employee is a private company, this subsection shall not apply in respect of any benefit provided or granted to any person who is a major shareholder in that company."

(8) Section 336N of the principal Act (as so inserted) is hereby further amended by inserting, after subsection (3), the following subsection:

"(3A) For the purposes of this Part of this Act, any benefit provided or granted by an employer, being a private company, for or to an employee of that company where that employee holds, whether in his own right or beneficially, any shares of that company, shall be deemed to have been used, enjoyed, or received by that employee directly in relation to his employment as an employee of that company; and, for the purposes of determining whether, for the purposes of this subsection, an employee holds any shares in a company in relation to which he is an employee, the provisions of subsection (2A) of this section shall apply, so far as they are applicable and with any necessary modifications, as if the person referred to in those paragraphs were the said employee and as if references to the percentage of the ordinary shares of the company were references to the number of ordinary shares of the company."

(9) Section 336N (5) of the principal Act (as so inserted) is hereby amended by repealing paragraph (b), and substituting the following paragraphs:

"(b) The Commissioner is satisfied that the amount of the difference between the said price and the said cost results from the allowance by the employer, in addition to the discount allowed by him to persons who on that day purchase from him (at arm's length and in the open market) goods that in relation to the special goods are identical goods, of the discount that, customarily, is allowed by the employer in respect of the purchase from him of goods by employees of the employer; and

"(c) The amount of the price at which the special goods are sold to the employee is not less than the lesser of—

"(i) An amount equal to 95 percent of the said cost of the special goods to the employer:

"(ii) An amount equal to 95 percent of the price at which goods that, in relation to those special goods, are identical goods were available for purchase from the employer by members of the general public on that day in a sale freely offered to them in the open market in New Zealand; and

"(d) The Commissioner is satisfied that either immediately before or immediately after the said sale of the special goods by the employer to the employee of

the employer, a reasonable quantity of goods that, in relation to those special goods, are identical goods was available for purchase from the employer by members of the general public in a sale freely offered to them in the open market in New Zealand at a price not more than the price at which those goods were, immediately before the allowance therefrom of the discount last mentioned in paragraph (b) of this subsection, offered to the employee by the employer of the employee,—".

(10) Section 336N of the principal Act (as so inserted) is hereby further amended by adding the following subsections:

"(6) For the purposes of this Part of this Act, in any case where—

"(a) Any item of goods is on any day sold by an employer to an employee of the employer at a price that is less than the cost of that item of goods to the employer; and

"(b) That item of goods was sold by that employer to that employee in the normal course of that employer's business; and

"(c) The Commissioner is satisfied that the amount of the difference between the said price and the said cost results from the allowance, by the employer, of the discount that, customarily, is allowed by the employer in respect of the purchase from him of goods by employees of the employer; and

"(d) The amount of that discount is not greater than an amount equal to 5 percent of the price for which, at the time when the item of goods was provided to the employee, other goods (being, in relation to that item of goods, identical goods) were or would have been sold by him by retail to purchasers who in relation to him were, the Commissioner is satisfied, at arm's length, in the open market in New Zealand in sales freely offered and made on ordinary trade terms,—

that item of goods shall, except where the selling price of the other goods referred to in paragraph (d) of this subsection is in excess of $200, be deemed to have been sold at a price equal to the cost of that item of goods to the employer.

"(7) For the purposes of subsections (5) and (6) of this section, where any person, being a company included in a group of companies, sells an item of goods to an employee of an employer that is another company included in that group of

companies, that person shall, in the selling of that item of goods to that employee, be deemed to be the employer of the employee and the employee shall be deemed to be the employee of that employer."

(11) Subsections (1), (5), and (10) of this section shall apply with respect to the fringe benefit tax on fringe benefits (as defined in section 336N of the principal Act) provided on or after the 1st day of April 1985.

(12) Subsections (2), (3), (4), (6), (7), (8), and (9) of this section shall apply with respect to the fringe benefit tax on fringe benefits (as defined in section 336N of the principal Act) provided on or after the 1st day of April 1986.

35. Value of fringe benefit—(1) Section 336O of the principal Act (as inserted by section 34 (1) of the Income Tax Amendment Act (No. 2) 1985) is hereby amended by inserting, after subsection (1), the following subsection:

"(1A) For the purposes of the Tenth Schedule to this Act,—

"(a) In any case where, in any quarter, any motor vehicle, being a motor vehicle acquired by a person on or after the 23rd day of September 1985 (that acquisition being referred to hereafter in this subsection as the specified acquisition), is owned by the person and has, within the period of 24 consecutive months immediately preceding the day on which the specified acquisition occurred, been owned by the person, or by any other person where the person and the other person are associated persons, the cost price of the motor vehicle to the person shall be deemed to be an amount equal to the higher or, as the case may be, the highest of the cost prices for which the motor vehicle has, subsequent to its manufacture, been acquired by the person or the other person:

"(b) Subject to paragraph (a) of this subsection, where, in relation to any motor vehicle and to any acquisition thereof by any person,—

"(i) The motor vehicle was acquired by that person at no cost; or

"(ii) The cost price of the motor vehicle to that person was, in the opinion of the Commissioner, less than the amount of the market value of the motor vehicle on the date of the acquisition of it by that person, and the Commissioner is satisfied that the said cost price would not have been so less

but for an arrangement (being an arrangement within the meaning of the definition of the expression 'arrangement' in section 336N of this Act) entered into, for the purpose of defeating the intent and application of Part XB of this Act, between that person and any other person (that person and that other person being associated persons); or

"(iii) The cost price in relation to that acquisition is for any reason unable to be established by that person to the satisfaction of the Commissioner,—

the cost price, in relation to that acquisition, shall be deemed to be an amount equal to the amount which the Commissioner is satisfied was the market value of the motor vehicle on the date of that acquisition."

(2) Section 336O (6) of the principal Act (as so inserted) is hereby amended, as from its commencement, by omitting the word "subsection", and substituting the word "section".

(3) Subsection (1) of this section shall apply with respect to the fringe benefit tax on fringe benefits (as defined in section 336N of the principal Act) provided on or after the 23rd day of September 1985.

36. Taxable value of fringe benefit—Section 336P (2) of the principal Act (as inserted by section 34 (1) of the Income Tax Amendment Act (No. 2) 1985) is hereby amended, as from its commencement, by inserting, after the expression "paragraph (d)", the expression "or paragraph (e)".

37. Payment of fringe benefit tax every quarter—(1) The principal Act is hereby amended by repealing section 336T (as inserted by section 34 (1) of the Income Tax Amendment Act (No. 2) 1985), and substituting the following section:

"336T. (1) Within the period of 20 days immediately succeeding the expiry of each quarter, every person who is an employer of an employee, being a person to whom section 336R of this Act applies, shall, in relation to the quarter, forward to the Commissioner a return, in a form prescribed by the Commissioner, setting out—

"(a) In respect of the fringe benefits received or enjoyed by each of his employees in that quarter, such details as are prescribed in that form; and

"(b) A calculation of the amount of fringe benefit tax payable in respect of the taxable value of those fringe benefits,—

and the employer shall be liable to pay the amount so calculated to the Commissioner within the said period of 20 days.

"(2) Subject to subsection (3) of this section, where in any quarter no fringe benefit has been provided or granted by an employer, the employer shall, in relation to the quarter, forward to the Commissioner, within the period of 20 days immediately succeeding the expiry of the quarter, a return in a form prescribed by the Commissioner, setting out such details as are prescribed in that form.

"(3) The Commissioner may, for the purposes of meeting the special circumstances of any case or class of cases and upon or subject to such terms and conditions as he, in his discretion, requires, relieve any person in whole or in part from any obligation imposed upon him by subsection (2) of this section."

(2) This section shall apply with respect to the fringe benefit tax on fringe benefits (as defined in section 336N of the principal Act) provided on or after the 1st day of April 1986.

38. Additional tax to be charged if default made in payment of tax—(1) Section 398 (1) of the principal Act (as substituted by section 40 (1) of the Income Tax Amendment Act (No. 2) 1985) is hereby amended by omitting from the definition of the expression "specified rate of additional tax" the expression "section 34", and substituting the expression "section 34A".

(2) Section 398 (1) of the principal Act (as so substituted) is hereby further amended by repealing paragraph (b) of the definition of the expression "period of deferral", and substituting the following paragraph:

"(b) The day with which there expires the period of 1 month immediately following the day that immediately succeeds the due date for payment of that deferrable tax,—".

(3) This section shall apply with respect to the tax on income derived in the income year that commenced on the 1st day of April 1985 and in every subsequent year.

39. Deduction of tax from payment due to defaulters—(1) Section 400 of the principal Act is hereby amended by repealing subsection (2) (as substituted by section 47 (1) of the Income Tax Amendment Act 1980 and amended by section 40 (2) of the Income Tax Amendment Act (No. 3) 1983), and substituting the following subsection:

"(2) Where any taxpayer has made default in the payment to the Commissioner of any income tax (or any part thereof) payable by the taxpayer or any penalty (or any part thereof) incurred by him, 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 the taxpayer 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 (4) 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 taxpayer 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, at the time at which, pursuant to the notice, 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,—

"(c) To the extent that that sum is in respect of or in relation to income tax (or any part thereof) assessed on taxable income, the taxpayer who derived that taxable income:

"(d) To the extent that that sum is in respect of or in relation to the whole or any part of a tax deduction or a penalty, an account maintained by the Commissioner in relation to that tax deduction or, as the case may be, that penalty."

(2) Section 400 (7) of the principal Act is hereby amended by inserting, after the word "deduction" in both places where it occurs, the words "or extraction".

(3) Section 400 of the principal Act is hereby further amended by inserting, after subsection (7), the following subsection:

"(7A) 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 taxpayer to whom the notice relates and of all other persons concerned and is hereby indemnified in respect of such deduction, extraction, or payment."

(4) Section 400 (8) of the principal Act is hereby amended by inserting, after the word "deducted", the words "or extracted".

(5) Section 400 of the principal Act is hereby further amended by inserting, after subsection (8), the following subsection:

"(8A) 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 taxpayer, 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 income tax payable by the debtor."

(6) Section 400 (9) of the principal Act (as amended by section 31 (2) of the Income Tax Amendment Act (No. 2) 1977) is hereby amended—

(a) By inserting, after the word "deduction" in both places where it occurs, the words "or extraction":

(b) By inserting, after the word "deducted", the words "or extracted".

(7) Section 400 (9) of the principal Act (as so amended) is hereby further amended by inserting, after paragraph (b), the following paragraph:

"(c) Permits the payment to or on behalf of any person, other than the Commissioner, of any amount that, under subsection (8A) of this section, is deemed to be held in trust for the Crown."

(8) The Income Tax Amendment Act (No. 3) 1983 is hereby consequentially amended by repealing section 40 (2).

(9) Subsections (1), (2), (4), (5), (6), (7), and (8) of this section shall apply in relation to notices under section 400 of the principal Act issued on or after the coming into force of this Act.

(10) Subsection (3) of this section shall apply in relation to notices under section 400 of the principal Act issued at any time, whether before, on, or after the coming into force of this Act.

40. Relief from additional tax—(1) Section 413 of the principal Act (as substituted by section 42 (1) of the Income Tax Amendment Act (No. 2) 1985) is hereby amended by inserting, after subsection (2), the following subsection:

"(2A) Subject to this section, where any additional tax imposed under section 398 (2) (a) of this Act, or any incremental tax, has been added to any provisional tax which was payable by any taxpayer in respect of any income year, and the Commissioner has made an assessment of the amount of income tax payable on the income derived by the taxpayer in the income year, or is satisfied that no income tax is payable on that income, the Commissioner, if, having regard to the amount of income tax (if any) payable for that year and to

the other circumstances of the case, he thinks it equitable to do so, may, subject to this section, grant relief to the taxpayer—

"(a) By the remission of the whole or part of the additional tax, or, as the case may be, the incremental tax; or

"(b) Where the additional tax, or, as the case may be, the incremental tax has been paid in whole or in part, by the refund to the taxpayer of the whole or any part of that additional tax or that incremental tax that has been paid, with or without the remission of any part of that additional tax or that incremental tax that has not been paid."

(2) Section 413 of the principal Act (as so substituted) is hereby further amended by inserting in subsection (4), after the expression "subsection (2)", the expression "or subsection (2A)".

(3) This section shall apply with respect to the tax on income derived in the income year that commenced on the 1st day of April 1985 and in every subsequent year.

41. Officers and employees of corporate bodies—(1) The principal Act is hereby amended by inserting, after section 416, the following section:

"416A. (1) For the purposes of this section, unless the context otherwise requires, 'officer', in relation to a corporate body, includes—

"(a) A director or secretary or other statutory officer of the corporate body:

"(b) A receiver or a manager of any property of the corporate body, or a person having powers or responsibilities, similar to those of such a receiver or manager, in relation to the corporate body:

"(c) A liquidator of the corporate body.

"(2) Every person commits an offence against this Act who, being an officer or an employee of a corporate body, is, by reason of that office or, as the case may be, that employment, responsible (whether pursuant to any statute or rule of law, or any instructions of the corporate body or for any other reason) for furnishing to the Commissioner any information or any statement or any return pursuant to this Act or pursuant to any notice, order, or requirement issued, made, or notified pursuant to this Act, and who fails to furnish that information or that statement or that return, as the case may be, to the Commissioner within the time specified for the furnishing thereof."

(2) This section shall apply in respect of any offence committed on or after the 1st day of April 1986.

42. Penalties for offences—(1) The principal Act is hereby amended by inserting, after section 416A (as inserted by section 41 of this Act), the following section:

"416B. (1) Every person who commits an offence against section 368 (1) (b) of this Act shall,—

"(a) On the first occasion on which he is convicted of any such offence or more than one such offence, be liable, in respect of that offence or, as the case may be, each of those offences, to imprisonment for a term not exceeding 12 months or to a fine not exceeding $15,000:

"(b) On every occasion, other than the occasion referred to in paragraph (a) of this subsection, on which he is convicted of any such offence or more than one such offence, be liable, in respect of that offence or, as the case may be, each of those offences, to imprisonment for a term not exceeding 12 months or to a fine not exceeding $25,000.

"(2) Every person who commits an offence against section 416 (1) (a) or section 416A of this Act shall,—

"(a) On the first occasion on which he is convicted of any such offence or more than one such offence, be liable, in respect of that offence or, as the case may be, each of those offences, to a fine not exceeding $2,000:

"(b) On the second occasion on which he is convicted of any such offence or more than one such offence, be liable, in respect of that offence or, as the case may be, each of those offences, to a fine not exceeding $4,000:

"(c) On every occasion, other than the occasions referred to in paragraphs (a) and (b) of this subsection, on which he is convicted of any such offence or more than one such offence, be liable, in respect of that offence or, as the case may be, each of those offences, to a fine not exceeding $6,000.

"(3) Every person who commits an offence against this Act for which no other penalty is prescribed shall,—

"(a) On the first occasion on which he is convicted of any such offence or more than one such offence, be liable, in respect of that offence or, as the case may be, each of those offences, to a fine not exceeding $15,000:

"(b) On every occasion, other than the occasion referred to in paragraph (a) of this subsection, on which he is

convicted of any such offence or more than one such offence, be liable, in respect of that offence or, as the case may be, each of those offences, to a fine not exceeding $25,000."

(2) The principal Act is hereby consequentially amended—

(a) By inserting in section 368 (1), after the expression "section 416", the words "or section 416A":

(b) By repealing sections 368 (2) and 416 (2) and (3):

(c) By omitting from section 400 (9) (as amended by section 39 (6) and (7) of this Act) the words "and shall be liable on summary conviction to a fine not exceeding $2,000", and substituting the words "against this Act".

(3) The Income Tax Amendment Act (No. 2) 1977 is hereby consequentially amended by repealing section 31 (1), (2), and (3).

(4) This section shall come into force on the 1st day of April 1986 and shall apply in respect of any offence committed on or after that date.

(5) Any proceedings commenced (whether before or after the commencement of this section) for an offence committed before the commencement of this section shall be heard and determined as if this section had not been passed.

43. Terminating dates of taxation incentives—(1) The principal Act is hereby further amended by repealing the Third Schedule (as substituted by section 47 (1) of the Income Tax Amendment Act (No. 2) 1985), and substituting the new Third Schedule set out in the First Schedule to this Act.

(2) The Income Tax Amendment Act (No. 2) 1985 is hereby consequentially amended by repealing section 47 (1) and the Second Schedule thereto.

44. Fringe benefit values—(1) The principal Act is hereby amended by repealing the Tenth Schedule (as inserted by section 34 (2) of the Income Tax Amendment Act (No. 2) 1985), and substituting the new Tenth Schedule set out in the Second Schedule to this Act.

(2) The Income Tax Amendment Act (No. 2) 1985 is hereby consequentially amended by repealing section 34 (2) and the First Schedule thereto.

(3) This section shall apply with respect to the tax on fringe benefits (as defined in section 336N of the principal Act) provided on or after the 23rd day of September 1985.

45. Miscellaneous amendments—(1) Section 312 (4) of the principal Act is hereby amended by omitting the words "or paragraph (d)".

(2) Section 313 of the principal Act is hereby amended by omitting from subsections (1) (a) and (2) (a) the words "or paragraph (d)".

(3) Section 55 (1) of the Income Tax Amendment Act 1979 is hereby repealed.

(4) Section 17 of the Income Tax Amendment Act (No. 2) 1982 is hereby amended by repealing subsections (1) and (2).

(5) Section 47 (2) of the Income Tax Amendment Act (No. 3) 1983 is hereby repealed.

(6) Section 2 (8) (a) of the Income Tax Amendment Act (No. 3) 1985 is hereby amended, as from its commencement, by omitting the expression "7 (1)", and substituting the expression "7 (1) (c)".

SCHEDULES

Section 43

FIRST SCHEDULE

NEW THIRD SCHEDULE TO PRINCIPAL ACT

Section 2

"THIRD SCHEDULE

TERMINATING DATES

Section of Act	General Description	Terminating Date
119	Regional investment allowance	31 March 1983
120	Export investment allowance	31 March 1983
121	Industrial development plan investment allowance	31 March 1986
121A	High priority activity investment allowance	31 March 1984
122	Farming and agriculture investment allowance	31 March 1985
123	Fishing investment allowance	31 March 1983
127	Development expenditure on farming or agricultural land	31 March 1987
127A	Development expenditure on forestry ..	31 March 1987
128	Development expenditure on aquaculture ..	31 March 1987

The reference in the second column of this Schedule to the nature of the deduction is by way of general description only and shall not be construed as limiting or extending the deduction under the section referred to in the first column of this Schedule."

SECOND SCHEDULE

Section 44

NEW TENTH SCHEDULE TO PRINCIPAL ACT

"TENTH SCHEDULE

Section 336o

FRINGE BENEFIT VALUES

Motor Vehicles

In relation to any quarter and to any motor vehicle that in the quarter is provided by any person for the private use or enjoyment of an employee or is available for such private use or enjoyment, the value of the benefit that would be able to be enjoyed by the employee, if the employee had unlimited private use or enjoyment or availability for private use or enjoyment of the motor vehicle in that quarter, shall be,—

(a) Where the motor vehicle is owned (whether in his own right or jointly with any other person) by that person, an amount equal to 6 percent of the cost price of the motor vehicle to that person or, as the case may be, those persons:

(b) Where the motor vehicle is leased or rented by that person from any other person (that person and that other person being associated persons) under a lease or rental agreement that commenced—

(i) Before the 23rd day of September 1985, an amount equal to 6 percent of the market value of the motor vehicle on the date on which the period of that leasing or renting commenced;

(ii) On or after the 23rd day of September 1985, an amount equal to 6 percent of the cost price of the motor vehicle to the person who is the owner of the motor vehicle at the time the benefit is provided to the employee:

(c) Where the motor vehicle is leased or rented by that person from any other person, where that person and that other person are not associated persons, an amount equal to 6 percent of the market value of the motor vehicle on the date on which the period of that leasing or renting commenced:

(d) Where, for the purposes of paragraph (b) (i) or paragraph (c) of this Schedule, the market value of the motor vehicle on the date on which the period of that leasing or renting of that motor vehicle commenced is for any reason unable to be established by that person to the satisfaction of the Commissioner, an amount equal to 6 percent of the amount which the Commissioner is satisfied was the market value of the motor vehicle at the date on which the period of that leasing or renting commenced:

(e) Where the motor vehicle to which this Schedule applies is one of a number of motor vehicles each of which is available for the private use or enjoyment of the employee in that quarter, an amount equal to 6 percent of the quotient obtained by dividing the sum of, as appropriate, the cost prices and market values of those motor vehicles, as determined in accordance with the foregoing paragraphs of this Schedule, by the total number of those motor vehicles."

This Act is administered in the Inland Revenue Department.
