



ANALYSIS

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An Act to amend the Income Tax Act 1976

[1 April 1993]

BE IT ENACTED by the Parliament of New Zealand as follows:

1. Short Title and application—(1) This Act may be cited as the Income Tax Amendment Act 1993, and shall be read together with and deemed part of the Income Tax Act 1976 (hereinafter referred to as the principal Act).

(2) Except as provided in subsections (3) to (5) of section 2 and in sections 5 (3), 9 (2), 13 (2), 18 (2), 19 (2), 21 (2), 22 (2), and 23 (3) of this Act, this Act shall apply with respect to the tax on income derived in the 1993–94 income year and subsequent years.

PART I

NEW DEPRECIATION REGIME

2. New sections substituted—(1) The principal Act is hereby amended by repealing section 108, and substituting the following sections:

“107A. **Interpretation—depreciation**—(1) For the purposes of this section and sections 108 to 108M of this Act, unless the context otherwise requires,—

“‘Adjusted tax value’ means, in relation to any depreciable property of a taxpayer and any particular time (and subject to section 108J of this Act, in the case of property in a pool), the amount calculated in accordance with the following formula:

base value — aggregate deductions

where—

“‘Base value’ is,—

“(a) Except where paragraph (b) or paragraph (c) of this item applies, the cost of the property to the taxpayer (excluding any expenditure of the taxpayer allowed as a deduction under any provision of this Act other than sections 108 to 108N and section 113A):

“(b) In the case of property in respect of which a depreciation allowance could have been claimed under section 108 of this Act in the 1992–93 income year, the amount at which the property was recorded in the taxpayer’s accounts for taxation purposes for the 1992–93 income year:

“(c) In the case of property of the taxpayer that—

“(i) Since its acquisition by the taxpayer has been, in respect of any income year, property for which no depreciation deduction could have been claimed by the taxpayer under section 108 of this Act (whether by virtue of the nature of the taxpayer’s use of the property or the non-residence of the taxpayer or otherwise); and

“(ii) Was either acquired by the taxpayer after the end of the 1992–93 income year, or was property in respect of which the taxpayer could not, for the 1992–93 income year, have claimed a depreciation deduction under section 108 of this Act; and

“(iii) Is neither a building nor schedule depreciable property,—

the market value of the property at the time that it first qualified for a tax deduction since owned by that taxpayer; and

“‘Aggregate deductions’ is the aggregate amount of—

“(a) Any depreciation deductions that would, before the particular time, have been deductible in calculating the assessable income of the taxpayer if the property had been used or available for use by the taxpayer wholly in gaining or producing assessable income of the taxpayer at all times since—

“(i) The date of the taxpayer’s acquisition of the property, in the case of property to which paragraph (a) of the definition of the term ‘base value’ applies; or

“(ii) The end of the 1992-93 income year, in the case of property to which paragraph (b) of the definition of the term ‘base value’ applies; or

“(iii) The beginning of the month in the income year in which the taxpayer became entitled to claim a depreciation deduction under section 108 of this Act, in the case of property to which paragraph (c) of the definition of the term ‘base value’ applies;—

such deductions to be calculated using the depreciation method actually used by the taxpayer in each relevant income year or, if no method was used, the diminishing value method; and

“(b) Any amount required by section 117 (5) of this Act to be deducted since the commencement of the 1993-94 income year from the adjusted tax value of the property:

“ ‘Annual depreciation rate’, or ‘annual rate’, in relation to any depreciable property of a taxpayer, is the rate applying in respect of that property and that taxpayer pursuant to—

“(a) Section 108G of this Act, in the case of fixed life intangible property (not being excluded depreciable property):

“(b) Section 108H of this Act, in the case of excluded depreciable property:

“(c) Section 108D of this Act, in the case of other depreciable property acquired before the end of the taxpayer’s 1994-95 income year:

“(d) Section 108E of this Act, in the case of international aircraft acquired in the taxpayer’s 1995-96 income year or any subsequent year:

“(e) Section 108F of this Act, in the case of other depreciable property acquired in the taxpayer’s 1995-96 income year or any subsequent year:

“ ‘Basic economic depreciation rate’, or ‘economic rate’, in respect of any item of depreciable property other than fixed life intangible property or excluded

depreciable property, means the basic economic depreciation rate of that property within the meaning of section 108c or, where appropriate, section 108f of this Act:

- “‘Depreciable property’, in relation to any taxpayer,—
- “(a) Means any property of that taxpayer which might reasonably be expected in normal circumstances to decline in value while used or available for use by persons—
- “(i) In gaining or producing assessable income; or
- “(ii) In carrying on a business for the purpose of gaining or producing assessable income; but
- “(b) Does not include—
- “(i) Trading stock (as defined in section 85 (1) of this Act) of the taxpayer:
- “(ii) Land (excluding buildings and other fixtures and such improvements as are listed in the Twenty-first Schedule to this Act):
- “(iii) Financial arrangements, as defined in section 64B of this Act:
- “(iv) Intangible property other than intangible property which is of a type listed in the Twenty-second Schedule to this Act, which Schedule describes intangible property that has—
- “(A) A finite useful life that can be estimated with a reasonable degree of certainty on the date of its creation or acquisition; and
- “(B) If made depreciable, a low risk of being used in tax avoidance schemes:
- “(v) Property the cost of which is deductible under any of sections 104, 108J, 127, 131, 134 to 139, 142, 143, and 214F of this Act, or by virtue of an amortisation or other similar deduction available under any section of this Act (such as sections 128A, 128B, 128c, 144, and 222E) other than sections 108 to 108N and section 113A:
- “(vi) Property which will not, in respect of the taxpayer, decline in value as a result of any right of the taxpayer to receive

compensation for any such decline in value on disposition of such property:

- “ ‘Diminishing value method’ means the method of calculation of a depreciation deduction where in each year a constant percentage of the adjusted tax value of the depreciable property is deducted from the property’s adjusted tax value:
- “ ‘Estimated residual market value’ means, in respect of any depreciable property, its market value at the end of its estimated useful life, estimated reasonably as at the date of acquisition and based upon an assumption of normal and reasonable maintenance of that property over its estimated useful life:
- “ ‘Estimated useful life’ means, in respect of any depreciable property, the period over which such property might reasonably be expected to be useful in gaining or producing assessable income or in carrying on a business in New Zealand, having regard to such factors as likely wear and tear, the passage of time, exhaustion, and obsolescence and based upon an assumption of normal and reasonable maintenance:
- “ ‘Excluded depreciable property’ means, in respect of any taxpayer, any depreciable property—
 - “(a) That was used or was available to be used by the taxpayer for any purpose whatever within New Zealand, other than as trading stock, before the 1st day of April 1993; or
 - “(b) For which a binding contract for its purchase or construction was entered into by the taxpayer before the 16th day of December 1991; or
 - “(c) That is or has been in respect of the taxpayer a qualifying asset within the meaning of section 108N(1) of this Act; or
 - “(d) To the extent that the property is or has been in respect of the taxpayer a qualifying improvement within the meaning of section 108N of this Act; or
 - “(e) That is an intangible asset that was used or was available for use by the taxpayer before the 1st day of April 1993;—
 but does not include any item of property in existence at the end of the 1992–93 income year that was permitted by the Commissioner to be accounted for in that income year using any of the standard

value, replacement value, or annual revaluation methods:

“‘Fixed life intangible property’ means any intangible property that—

“(a) Is depreciable property; and

“(b) Has a legal life which could reasonably be expected, on the date of the creation or acquisition of the property, to be the same length as the property’s remaining estimated useful life:

“‘International aircraft’ means, in respect of any taxpayer and any income year, any jet-engined aircraft that the taxpayer used primarily and principally in that income year in regular commercial service to transport passengers between New Zealand and any other place:

“‘Legal life’, in respect of any intangible property and the owner of that property, means the number of years and any monthly fraction thereof that the property may remain or continue to remain in existence by virtue of the contract or statute that creates the property for the owner assuming any rights of renewal or extension that are essentially unconditional, or conditional on the payment of pre-determined fees, are exercised:

“‘Maximum pooling value’ means, in respect of any item of depreciable property of a taxpayer, the greater of—

“(a) \$2,000, or such higher value as may be specified by the Governor-General by Order in Council for the purposes of this definition; and

“(b) The value set in a determination issued by the Commissioner in accordance with section 108J (6) of this Act that applies to the item of property:

“‘Pool’ means any group of items of depreciable property that a taxpayer elects under section 108B of this Act to depreciate as a pool using the pool depreciation method:

“‘Poolable property’, in relation to any income year, means any item of depreciable property that—

“(a) Was—

“(i) Acquired in that income year for a consideration per item equal to or less than the maximum pooling value; or

“(ii) Previously accounted for separately but has as at the beginning of the income year an

adjusted tax value per item equal to or less than the maximum pooling value; or

“(iii) Permitted by the Commissioner to be accounted for at the end of the 1992–93 income year using the globo accounting method; and

“(b) Is used or available for use by the taxpayer wholly in the gaining or producing of assessable income or in carrying on a business for the purpose of gaining or producing assessable income, or, if it is not so wholly used or available for use, that other use is subject to fringe benefit tax; and

“(c) Is not a building:

“‘Pool depreciation method’ means the method of calculating deductions for depreciation set out in sections 108A (2) and 108j of this Act:

“‘Schedule depreciable property’ means any depreciable property that is—

“(a) A petroleum drilling rig; or

“(b) A support vessel for an offshore petroleum drilling rig; or

“(c) A support vessel for an offshore petroleum production platform:

“‘Software’ means the copyright in software, the right to use the copyright in software, or the right to use software:

“‘Straight line method’ means the method of calculation of a depreciation deduction where in each year a constant percentage of the cost of the property to that taxpayer is deducted from the property’s adjusted tax value.

“(2) References in this section or in sections 108 to 108N of this Act to an income year include references to corresponding non-standard accounting years.

“108. **Annual depreciation deduction**—(1) Subject to this Act, in calculating the assessable income of any taxpayer for any income year, an amount on account of depreciation for any depreciable property owned by the taxpayer at any time during that income year shall be deducted from the total income of the taxpayer in that income year.

“(2) No depreciation deduction shall be made in respect of any property for the income year in which the property is sold or otherwise disposed of, except in the case of property that is—

“(a) A building; or

“(b) Schedule depreciable property.

“(3) This section shall apply notwithstanding section 106 (1) (a) of this Act.

“108A. Formula for calculating depreciation deduction—(1) Subject to this Act and to subsection (2) of this section, the deduction on account of depreciation under section 108 of this Act for any depreciable property of a taxpayer in any income year shall be the smallest of the following amounts:

“(a) In the case of property that is not schedule depreciable property, an amount calculated in accordance with the following formula:

$$a \times b \times \frac{c}{12}$$

where—

“a is the annual depreciation rate (expressed as a decimal) applicable in that income year to such property and to the depreciation method used by the taxpayer in respect of the property; and

“b is—

“(i) In any case where the diminishing value method is being used, the adjusted tax value of the property at the end of the income year before any deduction for depreciation in that income year has been made; and

“(ii) In any case where the straight line method is being used, the cost of the property to the taxpayer (excluding any expenditure of the taxpayer allowed as a deduction under any provision of this Act other than sections 108 to 108N and section 113A); and

“c is the number of whole or part calendar months in the income year in which the property is owned by the taxpayer:

“(b) In the case of schedule depreciable property, an amount calculated in accordance with the following formula:

$$a \times b \times \frac{c}{365}$$

where—

“a is the annual depreciation rate (expressed as a decimal) applicable in that income year to such property and to the depreciation method used by the taxpayer in respect of the property; and

“b is—

“(i) In any case where the diminishing value method is being used, the adjusted tax value of the property at the end of the income year before any deduction for depreciation in that income year has been made; and

“(ii) In any case where the straight line method is being used, the cost of the property to the taxpayer; and

“c is the number of whole or part days in the income year in which the property is owned by the taxpayer and is used or available for use for the purposes of deriving assessable income or in carrying on a business for the purposes of deriving assessable income:

“(c) The adjusted tax value of the property at the end of the income year immediately before the deduction of any amount on account of depreciation for that income year:

“(d) Where the property is a motor vehicle to which section 106B (3) of this Act applies, an amount calculated in accordance with the following formula:

$$d \times e$$

where—

“d is the amount of the deduction calculated in accordance with paragraph (a) of this subsection in respect of the motor vehicle; and

“e is the proportion of business use to total use of the vehicle for the income year (expressed as a decimal) calculated in accordance with sections 106C to 106E of this Act:

“(e) Where—

“(i) The property is, at any time in the income year, used by the taxpayer other than wholly for the purposes of deriving assessable income or in

carrying on a business for the purpose of deriving assessable income; and

“(ii) That other use is not subject to fringe benefit tax under this Act; and

“(iii) The property is not a motor vehicle to which section 106B (3) of this Act applies,—
an amount calculated in accordance with the following formula:

$$d \times \frac{f}{g}$$

where—

“d is the amount of the deduction calculated under paragraph (a) of this subsection in respect of the property; and

“f is the number of days or other appropriate units of measurement (whether relating to time, distance, or otherwise) in the income year (or in such lesser period as that property was owned by the taxpayer in that income year), being days or other appropriate units of measurement for which—

“(i) The property was physically used or operated to produce assessable income or in carrying on a business for the purpose of producing assessable income; or

“(ii) Fringe benefit tax was payable in respect of the use of the property; or

“(iii) The property was not physically used or operated for any purpose whatever but was available for the purpose set out in subparagraph (i) of this item; and

“g is the total number of days or other units of measurement (being the same units of time or other measurement as are used in item f of this formula) for which the depreciable property was used or available for use for any purpose whatever in the income year (or in such lesser period as the property was owned by the taxpayer in that income year).

“(2) Where a taxpayer has elected in accordance with section 108B (1) of this Act to depreciate any depreciable property using the pool depreciation method for any income year,—

“(a) In calculating the assessable income of the taxpayer for that income year, the amount on account of

depreciation to be deducted under section 108 of this Act in respect of all such property within a pool shall be equal to the aggregate of all deductions calculated in accordance with section 108j of this Act in respect of that income year; and

“(b) Subsection (1) of this section shall not apply in respect of any such property.

“108B. **Depreciation method**—(1) In calculating for any income year the depreciation deduction in respect of any depreciable property other than fixed life intangible property, a taxpayer may elect to use—

“(a) The diminishing value method; or

“(b) The straight line method; or

“(c) Where the property is poolable property, the pool depreciation method.

“(2) In calculating for any income year the depreciation deduction for any item of fixed life intangible property, a taxpayer shall use only the straight line method.

“(3) A taxpayer election under subsection (1) of this section in respect of any item of depreciable property shall be made by applying to that item of property, in the taxpayer’s return of income for the income year in respect of which the election is made, a particular method of depreciation.

“(4) An election made in accordance with subsection (3) of this section in respect of any item of property and any income year, shall apply, and may not be subsequently altered by the taxpayer,—

“(a) In respect of that item of property and that income year, in all cases; and

“(b) In the case of an election to use the pool depreciation method, in respect of that item of property and all subsequent income years in which the item of property continues to be poolable property owned by the taxpayer.

“(5) A taxpayer may not elect under subsection (1) of this section to use the pool depreciation method in respect of any item of poolable property of a kind referred to in paragraph (a) (iii) of the definition of the term ‘poolable property’ in section 107A (1) of this Act unless the taxpayer also elects to treat, as a single pool, all such items of property still owned by the taxpayer that were accounted for by the taxpayer at the end of the 1992–93 income year within the same globo account.

“(6) Where a taxpayer elects for any income year to change the method of calculating the depreciation deduction in relation to any item of depreciable property from the diminishing value method to the straight line method, the adjusted tax value of the property at the end of that income year (before any deduction for depreciation in that income year has been made) shall be treated as the cost of the property for the purposes of calculating such deduction in accordance with the straight-line method.

“108c. **Basic economic depreciation rate**—(1) The basic economic depreciation rate for any depreciable property other than fixed life intangible property or excluded depreciable property shall be specified by the Commissioner by determination under this section.

“(2) Any such determination may specify for any depreciable property either the diminishing value rate only or both a diminishing value rate and a straight line rate.

“(3) In setting a diminishing value economic rate under this section, the Commissioner shall, in general terms and subject to subsections (4) and (5) of this section, apply and have regard to the following formula:

$$1 - \left(\left(\frac{\text{residual value}}{\text{cost}} \right)^{\frac{1}{\text{estimated useful life}}} \right)$$

where ‘residual value’ is the greater of—

“(a) Estimated residual market value; and

“(b) An amount equal to 13.5 percent of cost.

“(4) The Commissioner shall set a single economic rate for a number of similar types of depreciable property where it appears appropriate having regard to—

“(a) The rates calculated for each of those types of depreciable property; and

“(b) The reduction in compliance costs that will be so achieved.

“(5) An economic rate issued in a determination by the Commissioner under subsection (1) of this section shall be one of the rates specified in the Twenty-third Schedule to this Act, and that rate shall be obtained by the Commissioner rounding either up or down the rate initially calculated in accordance with subsection (3) of this section to the nearest rate specified in that Schedule.

“(6) Subject to subsection (7) of this section, any economic rate specified in a determination under this section shall apply according to the tenor of the determination and, without limiting the generality of this subsection, may be expressed to apply—

“(a) In relation to depreciable property of the class specified, whenever acquired or used; or

“(b) In relation to depreciable property of the class specified having regard to—

“(i) The date or income year of its acquisition or use by a particular taxpayer; or

“(ii) The date or income year of its first acquisition or use by any taxpayer; or

“(iii) Whether or not it has been previously used or available for use in New Zealand or elsewhere,— or otherwise howsoever.

“(7) No determination made under this section shall apply to reduce the economic rate already applying under this section (but not under section 108i of this Act) to any item of property acquired by a taxpayer before the date on which the determination was issued (or acquired after that date pursuant to a binding contract entered into before that date), except in the situation where the taxpayer disposes or has disposed of the property and subsequently re-acquires it after that date.

“108D. Annual depreciation rate for property acquired before end of 1994–95 income year—(1) The annual depreciation rate for any depreciable property of a taxpayer (not being fixed life intangible property or excluded depreciable property) acquired by the taxpayer before the end of the taxpayer’s 1994–95 income year shall be—

“(a) Its basic economic depreciation rate; or

“(b) If the taxpayer so elects in accordance with subsection (2) of this section, its pre-1993 depreciation rate.

“(2) An election made by a taxpayer under subsection (1) (b) of this section—

“(a) May be made in respect of all or any items of property of the taxpayer to which such an election may apply; and

“(b) Shall be made by applying to any such item of property, in the taxpayer’s return of income for the income year in respect of which the election is made, the pre-1993 depreciation rate for that item of property; and

“(c) May not subsequently be altered for the income year in respect of which it was made.

“(3) For the purposes of this section, the term ‘pre-1993 depreciation rate’, in respect of any item of depreciable property of a taxpayer, means the rate of depreciation that the Commissioner allowed to be used in the 1992-93 income year to calculate an allowance by way of depreciation under section 108 of this Act (as then in force) in respect of depreciable property of that class, such rate to be determined—

“(a) As inclusive of the rate of any allowance that the item of property would have been eligible for under section 113A of this Act if it had been acquired by the taxpayer in the 1992-93 income year; and

“(b) As inclusive of the rate of any allowance available in the 1992-93 income year under section 108N of this Act (being the former section 108A) in respect of depreciable property of that class, where the item of property has not been used or held for use in New Zealand (other than as trading stock) by any person before the date on which the taxpayer acquired it.

“108E. **Annual depreciation rate of international aircraft acquired in 1995-96 or subsequent income year**—The annual depreciation rate for international aircraft (not being excluded depreciable property) acquired by the taxpayer in the taxpayer’s 1995-96 income year or any subsequent year shall be 15 percent diminishing value or 10 percent straight line.

“108F. **Annual depreciation rate for other property acquired in 1995-96 or subsequent income year**—The annual depreciation rate for any depreciable property of a taxpayer (not being fixed life intangible property or excluded depreciable property or international aircraft) acquired by the taxpayer in the taxpayer’s 1995-96 income year or any subsequent year shall be,—

“(a) In the case of property that—

“(i) Has not been used or held for use in New Zealand, other than as trading stock, by any person before the date on which the taxpayer acquired it; and

“(ii) Is neither a building nor a used imported motorcar,—

a rate equal to its basic economic depreciation rate multiplied by a factor of 1.20:

“(b) In any other case, the property’s basic economic depreciation rate.

“108G. Annual depreciation rate for fixed life intangible property—The annual depreciation rate for any fixed life intangible property of a taxpayer shall be the rate, expressed as a decimal and rounded to two decimal places (with numbers at the midpoint or greater being rounded up and other numbers being rounded down), calculated in accordance with the following formula:

$$\frac{1}{\text{legal life}}$$

where ‘legal life’ means the legal life of the property at the time at which it was acquired by the taxpayer.

“108H. Depreciation rate for excluded depreciable property—(1) The annual depreciation rate for any excluded depreciable property shall be the rate which the Commissioner allowed to be used to calculate an allowance by way of depreciation under section 108 of this Act (as then in force) in respect of depreciable property of that class in the 1992–93 income year for a standard balance date taxpayer, which rate shall be exclusive of any additional or supplemental allowance available in respect of that income year under section 108A (as so numbered before the enactment of section 8 of the Income Tax Amendment Act 1993) or section 113A or any other section of this Act.

“(2) Notwithstanding subsection (1) of this section, where in the 1993–94 income year or any subsequent year a taxpayer is entitled under section 108N or section 113A or any other provision of this Act to any additional or supplemental allowance on account of depreciation of any excluded depreciable property,—

“(a) The rate applicable to that property under subsection (1) of this section may be adjusted to incorporate that additional or supplemental allowance in such manner as may be prescribed or allowed by the Commissioner; and

“(b) Where such an adjusted rate is applied to the property, a separate deduction shall not be calculated or allowed in respect of the property under the said section 108N or section 113A or other provision.

“(3) Where the depreciation rate referred to in subsection (1) or subsection (2) of this section is—

“(a) A diminishing value rate, the depreciable property may instead be depreciated at the straight line rate determined by—

“(i) Rounding (if necessary) that diminishing value rate to the nearest rate specified in the first column of the Twenty-fourth Schedule to this Act; and

“(ii) Ascertaining the equivalent straight line rate (if any) specified in the second column of that Schedule; or

“(b) A straight line rate, the depreciable property may instead be depreciated at the diminishing value rate determined by—

“(i) Rounding (if necessary) that straight line rate to the nearest rate specified in the second column of the Twenty-third Schedule to this Act; and

“(ii) Ascertaining the equivalent diminishing value rate specified in the first column of that Schedule.

“108i. **Special and provisional economic rates**—(1) The Commissioner may, upon application in writing from a taxpayer in respect of any depreciable property other than fixed life intangible property or excluded depreciable property, allow that taxpayer to apply in respect of that property, for such income year or years as the Commissioner may specify,—

“(a) A special basic economic depreciation rate higher or lower than that specified in a determination under section 108c of this Act; or

“(b) A provisional basic economic depreciation rate, where no applicable economic rate is specified in a determination under section 108c of this Act.

“(2) When determining whether or not to allow a special economic rate or a provisional economic rate under subsection (1) of this section, and the rate (if any) at which such a rate is to be set, the Commissioner shall have regard to—

“(a) The formula set out in section 108c (3) of this Act; and

“(b) The rate of depreciation (if any) adopted by the taxpayer in respect of the depreciable property for financial reporting purposes.

“(3) The Commissioner may decline to issue a determination under subsection (1) of this section where,—

“(a) In the case of an application for a special rate,—

“(i) Any appropriate rate calculated having regard to subsection (2) of this section would not differ from the general economic rate already applicable to the property under section 108c of this Act by an

amount equal to or greater than one half the amount by which the next highest or lowest (as the case may require) banded rate specified in the Twenty-third Schedule to this Act exceeds or is less than that already applicable general economic rate; or

“(ii) The general economic rate applicable to the property under section 108c of this Act is under review by the Commissioner and a new general economic rate equal to or greater than any appropriate rate calculated having regard to subsection (2) of this section will be set within 6 months of the Commissioner receiving the taxpayer’s application for a special rate; or

“(iii) The taxpayer has supplied insufficient information to enable the Commissioner to calculate an appropriate rate:

“(b) In the case of an application for a provisional rate,—

“(i) A general economic rate specified under section 108c of this Act already applies to the property; or

“(ii) A general economic rate applicable to the property for the income year to which the application relates is in the process of being determined and will within the next 6 months be set under section 108c of this Act; or

“(iii) The taxpayer has supplied insufficient information to enable the Commissioner to calculate an appropriate rate.

“(4) Where the Commissioner issues a determination under this section which sets a provisional economic rate in respect of any depreciable property and any taxpayer,—

“(a) That determination may also be expressed to apply in respect of property of that class and any other taxpayer or class of taxpayers; and

“(b) That determination shall cease to apply to the taxpayer and the property, or to any other taxpayer, where the Commissioner sets a general economic rate under section 108c of this Act in respect of property of that class, unless the determination otherwise specifically provides.

“(5) Where the Commissioner has issued a determination under this section which sets a special economic rate, and the circumstances that applied at the time the determination was

issued no longer exist or have changed in a material particular, the Commissioner may—

“(a) Revoke the determination (thereby requiring any property affected to be depreciated on the basis of the general economic rate or any applicable provisional rate); or

“(b) Revoke the determination and issue a new determination that sets a new special economic rate in respect of the property concerned.

“(6) A revocation effected under subsection (5) of this section shall take effect on the day after the date on which notice of the revocation is given to the taxpayer under section 108M (2) of this Act or, where the notice is published in the *Gazette*, on the day after the date of the publication of the notice in the *Gazette*.

“(7) Any taxpayer who has applied for a determination under this section, and any taxpayer to whom a determination made under this section applies, may, within 2 months after the date the Commissioner gives notice under section 108M of this Act of—

“(a) The issuing of the determination; or

“(b) The Commissioner’s decision not to issue the determination; or

“(c) The revocation of the determination,—
object to the rate specified in or the application of the determination, or to the Commissioner’s revocation of or decision not to issue the determination, as the case may be, by delivering or posting to the Commissioner a written notice of objection stating shortly the grounds of that person’s objection.

“(8) Except where otherwise expressly provided, Part III of this Act, except section 36, shall, in relation to any objection under this section, apply with any necessary modifications in the same manner and to the same extent as if the objection were an objection made under section 30 (1) or, in the case of a late objection, section 30 (2) of this Act.

“(9) Subject to subsection (10) of this section, nothing in this section prevents a taxpayer from depreciating on the basis of the applicable economic rate specified under section 108c of this Act, or any applicable provisional rate set under this section, any item of depreciable property to which a special rate set under this section applies.

“(10) Where a special economic rate of depreciation that is higher than the general economic rate has applied to property of a taxpayer in any income year, the taxpayer shall not in any subsequent year depreciate that property on the basis of the

applicable general economic rate or any applicable provisional economic rate where—

- “(a) The market value of the depreciable property declined at a rate equal to or greater than that special economic rate in that subsequent income year; and
- “(b) In all the circumstances, it can reasonably be concluded that the taxpayer purported to change from the special economic rate to the general economic rate or the provisional economic rate for the purpose, or for purposes including the purpose, of enabling the taxpayer to defer the deduction from assessable income of the decline in value of that depreciable property which occurred in that subsequent income year.

“108j. **Pool method of depreciation**—(1) The deduction on account of depreciation that may be claimed for any income year in respect of any pool of depreciable property shall be calculated in accordance with the following formula:

$$a \times \frac{b + c}{2} \times \frac{d}{12}$$

where—

- “a is the diminishing value annual depreciation rate applicable to all items depreciated in the pool during the income year, or, if items having different annual rates were depreciated in the pool at any time during the income year, the lowest of those different rates; and
 - “b is the adjusted tax value of the pool at the beginning of the income year (or nil, if the pool did not then exist); and
 - “c is the adjusted tax value of the pool at the end of the income year before any deduction for depreciation in that income year has been made; and
 - “d is the number of whole or part calendar months in the taxpayer’s income year.
- “(2) Any deduction on account of depreciation available to a taxpayer in respect of a pool for any income year shall be treated as a deduction from the adjusted tax value of the pool as at the last day of that income year.
- “(3) Where a taxpayer elects to include an item of poolable property in a pool, the adjusted tax value of the pool shall be increased by—

- “(a) The cost of the item, if the item was included in the pool immediately upon its acquisition; or

- “(b) The adjusted tax value of the item at the date of its inclusion in the pool, if the item was previously accounted for separately.
- “(4) Where any item of property accounted for under the pool depreciation method is sold or otherwise disposed of, the following provisions shall apply:
- “(a) Any consideration derived by the taxpayer on disposal of the item shall be deducted from the adjusted tax value of the pool in which the item was included as at the date of the disposition; and
- “(b) Where on the last day of any income year the adjusted tax value of the pool is negative,—
- “(i) An amount equal to the amount by which the adjusted tax value is less than nil shall be deemed to be assessable income of the taxpayer derived in the income year as if it were assessable income derived by virtue of section 117 (2) of this Act; and
- “(ii) On the first day of the immediately succeeding income year the adjusted tax value of the pool shall be deemed to be nil; and
- “(c) Where on the last day of any income year the adjusted tax value of the pool is positive but all items of depreciable property which were in the pool have been sold or otherwise disposed of,—
- “(i) An amount equal to the adjusted tax value of that pool shall be deducted from the assessable income of the taxpayer for that income year; and
- “(ii) On the first day of the immediately succeeding income year the adjusted tax value shall be deemed to be nil.
- “(5) A taxpayer may at any time combine any number of pools to form a single pool, and, where this is done,—
- “(a) The adjusted tax value of the new pool shall be an amount equal to the sum of the adjusted tax values of the constituent pools; and
- “(b) The adjusted tax value of each of the constituent pools at the end of that income year shall be nil.
- “(6) A taxpayer may request the Commissioner to issue, and the Commissioner may issue, a determination in respect of any depreciable property that allows a maximum pooling value greater than that currently available to the taxpayer.
- “(7) Where a taxpayer makes a request for a determination under subsection (6) of this section in respect of any depreciable property, the Commissioner shall, in determining whether or

not to issue the determination, have regard to the following factors:

“(a) Whether or not the depreciable property is relatively homogeneous in nature:

“(b) Whether or not the compliance costs of the taxpayer will be materially reduced by pooling the depreciable property:

“(c) The frequency with which the taxpayer acquires and disposes of the depreciable property.

“(8) Where an item of property accounted for under the pool depreciation method commences being used by the taxpayer in such a manner that the item no longer satisfies paragraph (b) of the definition of the term ‘poolable property’ in section 107A (1) of this Act, then that item shall be accounted for by the taxpayer as if—

“(a) It had been disposed of by the taxpayer for a consideration equal to its market value on the day on which it was first so used, and subsection (4) of this section shall apply accordingly; and

“(b) It had been immediately reacquired by the taxpayer on that day for a consideration equal to that market value.

“108k. **Depreciation of depreciable property that can no longer be used**—(1) The deduction on account of depreciation that may be claimed for any income year in respect of any depreciable property that can no longer be used (other than a building or property that has been depreciated using the pool depreciation method) shall be, if the Commissioner so determines, an amount equal to the adjusted tax value of that property.

“(2) The deduction made under subsection (1) of this section shall be an amount equal to the adjusted tax value of the property at the beginning of that income year.

“(3) Where a deduction is made under subsection (1) of this section in respect of any depreciable property,—

“(a) The adjusted value of that property at the end of that income year shall be nil; and

“(b) No deduction shall be calculated under section 108A of this Act in respect of that property in that income year.

“(4) Section 117 of this Act shall apply if a taxpayer disposes of any property for which a deduction has been allowed under this section.

“(5) A taxpayer may apply to the Commissioner for a determination stating that the taxpayer may deduct the remaining adjusted tax value of any depreciable property.

“(6) When considering an application for a determination to deduct the remaining adjusted tax value of any depreciable property, the Commissioner—

“(a) Shall be satisfied—

“(i) That the property is no longer used by the taxpayer in the production of assessable income or in a business; and

“(ii) That the costs of disposing of the property would exceed any consideration that could be derived from the disposition of the property; and

“(b) Shall have regard to whether the property could still be used in the production of assessable income or in a business.

“108L. **Applications in accordance with prescribed procedure**—Any taxpayer who makes an application or objection under any of sections 108 to 108k of this Act shall make application or objection in accordance with such procedures as may be prescribed by regulations made under section 433 of this Act, or if no such regulations have been made or the regulations do not provide for the eventuality that occurs, in accordance with such procedure as may be prescribed by the Commissioner.

“108M. **Time limit and notification**—(1) Where any person applies to the Commissioner for the issue of a determination under any of the provisions of sections 108 to 108k of this Act, the Commissioner shall, not later than 6 months after the receipt of the application, respond to the application either—

“(a) By issuing, in accordance with subsection (2) of this section, the determination sought; or

“(b) Notifying the taxpayer, in accordance with subsection (2) of this section, of the Commissioner’s decision not to issue a determination.

“(2) Where the Commissioner issues or declines to issue or revokes any determination under any of the provisions of sections 108 to 108k of this Act, the Commissioner shall either—

“(a) Give written notice of the determination, or, as the case may require, of the reasons for declining to issue or for revoking the determination, and supply a copy

of the determination (if made) to the taxpayer or the representative of the taxpayer who applied for it; or

“(b) Where a determination is issued under section 108c of this Act, or a determination issued under section 108I (1) (b) of this Act is expressed to apply to a class of taxpayers, notify the making of the determination in the *Gazette*, which notification shall specify where copies of the determination can be obtained,—

within 30 days of issuing, declining to issue, or revoking a determination, as the case may be.”

(2) The following enactments are hereby consequentially repealed:

(a) Section 18 of the Income Tax Amendment Act 1986:

(b) Section 37 of the Income Tax Amendment Act (No. 5) 1988:

(c) Section 2 (5) (f) of the Income Tax Amendment Act (No. 2) 1990.

(3) Subject to subsection (4) of this section, sections 107A, 108C, 108D, 108G, 108I, 108L, and 108M of this Act (as enacted by subsection (1) of this section) shall come into force on the 1st day of April 1993.

(4) Notwithstanding subsection (3) of this section, where a taxpayer's 1993–94 income year commences before the 1st day of April 1993, sections 107A, 108L, and 108M of the principal Act shall have effect in relation to that taxpayer as if they had come into force on the date of the commencement of that taxpayer's 1993–94 income year.

(5) Notwithstanding subsection (3) of this section, sections 108, 108A, 108B, 108J, and 108K of this Act (as so enacted) shall, in relation to intangible property, come into force on the 1st day of April 1993.

PART II

RELATED AMENDMENTS AND REPEALS

3. Objections to which this Part does not apply—Section 36 of the principal Act is hereby amended by repealing paragraph (g).

4. Income derived from use or occupation of land—Section 74 of the principal Act (as substituted by section 4 of the Income Tax Amendment Act (No. 4) 1986) is hereby amended by repealing subsection (4), and substituting the following subsection:

“(4) Where—

“(a) Expenditure of a capital nature is incurred by a person in the acquisition or construction, on or after the 1st day of April 1975, of plant or machinery; and

“(b) That plant or machinery so acquired or constructed is first used on or after the 1st day of April 1975 by that person primarily and principally in planting or maintaining trees on the land in New Zealand on which that person carries on a forestry business or in preparing or otherwise developing that land for those forestry operations,—

that person shall deduct an amount on account of depreciation in accordance with sections 107A to 108M of this Act (but subject to sections 111A, 117, and 168 of this Act) as if that plant or machinery were depreciable property within the meaning of section 107A of this Act.”

5. Sums received from sale of patent rights—(1) Section 83 of the principal Act is hereby amended—

(a) By omitting from subsection (1) the words “(so far as that amount has not been otherwise allowed as a deduction from his assessable income for that or any other income year)”:

(b) By inserting in subsection (3) (a), after the words “devising of the invention”, the words “(to the extent that a deduction for that expenditure has not already been allowed under section 143 (2) of this Act)”:

(c) By inserting in subsection (3) (b), after the words “acquired the patent rights,”, the words “before the 1st day of April 1993”.

(2) Section 83 (3) of the principal Act is hereby further amended by adding the following paragraph:

“(c) Where the taxpayer acquired the patent rights on or after the 1st day of April 1993, the total cost of the patent rights to the taxpayer.”

(3) This section shall come into force on the 1st day of April 1993.

6. Excess income on sale of livestock where farmer forced to quit farm, etc.—Section 94 of the principal Act is hereby amended—

(a) By inserting in paragraph (a) of the definition of the term “qualifying expenditure” in subsection (1), after the expression “section 122 of this Act”, the words “as in

force before its repeal by section 27 (j) of the Income Tax Amendment Act 1993”:

- (b) By inserting in both paragraph (a) and paragraph (b) of subsection (10), in each case after the words “of section 125 of this Act”, the words “(as in force before its repeal by section 27 (l) of the Income Tax Amendment Act 1993)”.

7. Deductions for motor vehicle expenses—Section 106B of the principal Act (as substituted by section 7 of the Income Tax Amendment Act (No. 3) 1990) is hereby amended—

- (a) By omitting the word “and” at the end of subsection (1) (a):
- (b) By repealing subsection (1) (b):
- (c) By omitting the word “and” at the end of subsection (3) (a):
- (d) By repealing subsection (3) (b).

8. Section 108A renumbered and amended—(1) The principal Act is hereby amended by renumbering, as section 108N, the section 108A inserted into the principal Act by section 17 (1) of the Income Tax Amendment Act (No. 2) 1992.

(2) The said section 108N (as so renumbered by subsection (1) of this section) is hereby amended by omitting from the definition in subsection (1) of the term “qualifying asset” the words “, in the exercise of the Commissioner’s discretion under section 108 of this Act,”.

9. Low value asset write-off—(1) The principal Act is hereby amended by inserting, after section 108N (the section renumbered by section 8 of this Act), the following section:

“108o. (1) For the purposes of this section, ‘low value property’ means any property of a taxpayer—

“(a) Which is acquired for a consideration not exceeding \$200 or such higher value as may from time to time be specified by the Governor-General by Order in Council for the purposes of this definition; and

“(b) Which the taxpayer elects to treat as low value property; and

“(c) Which is not purchased at the same time and from the same supplier as any other property to which, if all those items of property were treated as depreciable property, the same depreciation rate would apply, unless the total consideration for all those items is

equal to or less than the amount referred to in paragraph (a) of this subsection; and

“(d) Which has not or will not become part of property that is depreciable property within the meaning of section 107A of this Act; and

“(e) The cost of which is not deductible under this Act other than in accordance with this section.

“(2) In calculating the assessable income of any taxpayer for any income year, the cost of any low value property purchased by the taxpayer in that income year shall be deducted from the total income of the taxpayer in that income year.

“(3) Where in any income year a taxpayer disposes of any low value property for which the taxpayer has claimed a deduction under subsection (2) of this section, the consideration derived from that disposal shall be assessable income of the taxpayer in that income year.

“(4) An election under subsection (1) (b) of this section in respect of any property shall be made by the taxpayer claiming, in the taxpayer’s return of income for the income year in respect of which the election is made, a deduction for the cost of the property.”

(2) Section 1080 of the principal Act (as inserted by subsection (1) of this section) shall, in relation to intangible property, come into force on the 1st day of April 1993.

10. Depreciation deduction where depreciated asset acquired by taxpayer from associated person—The principal Act is hereby amended by repealing section 111 (as amended by section 54 of the Income Tax Amendment Act 1979), and substituting the following section:

“111. (1) Where a taxpayer has acquired any property from an associated person (as defined in section 245B of this Act) entitled to a deduction in respect of the depreciation of the property, irrespective of whether or not any deduction has in fact been allowed to that associated person, the Commissioner shall not allow to the taxpayer any greater deduction in respect of the depreciation of the property than that which would have been allowed to the associated person if the associated person had retained the property:

“Provided that where any amount so allowed as a deduction to the associated person has been dealt with under section 117 of this Act, the Commissioner may allow to the taxpayer a deduction in respect of the depreciation of the property based on the aggregate of the total of all amounts so dealt with and

the amount of that depreciated value of the property immediately before it was acquired by the taxpayer.

“(2) This section shall not apply where the Commissioner is of the opinion that the circumstances are such that a deduction in respect of the depreciation of the property based on the actual price or other consideration given for the property should be allowed.”

11. Depreciation allowance where asset acquired by taxpayer as a result of a transfer under a matrimonial agreement—Section 111A of the principal Act (as inserted by section 54 (1) of the Income Tax Amendment Act (No. 3) 1983) is hereby amended by omitting the expression “, sections 108 to 110, and sections 112 to 116”, and substituting the expression “and sections 107A to 110”.

12. Supplementary depreciation allowance for plant and machinery used in 2 and 3 shift industries—(1) Section 113A of the principal Act (as inserted by section 17 of the Income Tax Amendment Act (No. 2) 1977) is hereby amended by inserting, after subsection (1), the following subsection:

“(1A) This section shall not, in respect of the 1993–94 income year and any subsequent year, apply to any depreciable property within the meaning of section 107A of this Act unless that property is excluded depreciable property within the meaning of that section.”

(2) The said section 113A is hereby further amended—

(a) By omitting from subsection (2) (d) the words “depreciation is not allowed under section 108 of this Act”, and substituting the words “was not, in respect of the 1992–93 income year or any earlier relevant year, allowed under section 108 of this Act as then in force”:

(b) By inserting in subsection (2) (e), after the expression “section 108 of this Act”, the words “for the 1992–93 income or any earlier relevant year”.

13. Gain or loss from disposition of depreciable property—(1) The principal Act is hereby amended by repealing section 117, and substituting the following section:

“117. (1) This section applies to the disposal of property of a taxpayer, being property—

“(a) Which is, in respect of that taxpayer,—

“(i) Depreciable property within the meaning of section 107A of this Act; or

“(ii) Software for which a deduction has been claimed for its purchase or creation costs; but

“(b) Which is not—

“(i) Schedule depreciable property; or

“(ii) Property that, at the time of disposition, is accounted for within a pool of items of property in accordance with section 108j of this Act.

“(2) Subject to subsection (4) of this section, where in any income year any property is disposed of by a taxpayer for a consideration that exceeds the adjusted tax value of that property on the date of disposition, the lesser of the following amounts shall be included in the assessable income derived by the taxpayer in that income year—

“(a) The aggregate of amounts allowed under this Act to the taxpayer as a deduction on account of depreciation in respect of the property (or, in the case of property referred to in subsection (1) (a) (ii) of this section, any deduction allowed for the purchase or creation of that property); and

“(b) The amount (if any) by which the consideration derived by the taxpayer from the disposition exceeds the adjusted tax value of the property as at the date of disposition.

“(3) Subject to subsection (4) of this section, where in any income year any depreciable property (other than a building) is disposed of by a taxpayer for a consideration that is less than its adjusted tax value at the time of disposition, the amount by which the adjusted tax value of the property as at the date of disposition exceeds the consideration derived by the taxpayer from the disposition shall be deducted from the assessable income of that taxpayer in the income year in which the sale or disposition occurs.

“(4) Where any property of a taxpayer—

“(a) Was, at any time during the time it was owned by that taxpayer, subject to paragraph (d) or paragraph (e) of section 108A (1) of this Act; or

“(b) Was, in the 1992–93 income year or any prior income year, property on which the deduction on account of depreciation allowed to the taxpayer by the Commissioner under section 108 of this Act (as then in force) was less than the deduction that the Commissioner would have allowed the taxpayer if the taxpayer had used the property wholly in the

gaining or producing of assessable income or in carrying on a business for the purpose of gaining or producing assessable income on account of the property not being wholly so used,—

the amount of any—

“(c) Assessable income under subsection (2) of this section; or

“(d) Deduction under subsection (3) of this section—

shall be calculated in accordance with the following formula:

$$\frac{a}{b - c} \times d$$

where—

“a is the total of all deductions actually taken in each of the income years in which the taxpayer owned the property in accordance with section 108 of this Act; and

“b is the cost of the property to that taxpayer; and

“c is the adjusted tax value of the property on the day on which the property is disposed of; and

“d is the amount of income calculated in accordance with subsection (2) of this section or deduction calculated in accordance with subsection (3) of this section.

“(5) Where a taxpayer receives an insurance payment or an indemnity payment or any other compensation in respect of any item of depreciable property (other than a payment for property which is irreparably damaged), there shall be deducted from the adjusted tax value of that property an amount equal to the amount by which the compensation received exceeds any expenditure incurred by the taxpayer in respect of the event for which the taxpayer received the compensation.

“(6) Where the adjusted tax value of any depreciable property of a taxpayer becomes negative in any income year as a consequence of the application of subsection (5) of this section, an amount equal to that negative amount shall be included in the assessable income derived by the taxpayer in that income year.

“(7) Subject to this Act, where any depreciable property has been disposed of—

“(a) Other than in accordance with a matrimonial agreement; and

“(b) Along with any other property; or

“(c) For a consideration that the Commissioner believes is not the market value; or

“(d) In accordance with subparagraph (ii) or subparagraph (iii) of paragraph (a) of the definition of the term ‘disposal’ in subsection (10) of this section,—
the Commissioner may deem the property to have been disposed of for a consideration equal to the property’s market value.

“(8) Where any depreciable property owned by a taxpayer is transferred in accordance with a matrimonial agreement,—

“(a) The taxpayer shall be deemed to have disposed of the property for a consideration equal to the adjusted tax value of the property at the commencement of the income year in which it is transferred, or, if the property was acquired by the taxpayer in that income year, for a consideration equal to the cost of the property; and

“(b) The person acquiring the property shall be deemed to have been allowed in calculating the assessable income derived by that person a deduction (additional to any deduction for depreciation claimed in respect of that asset by that person) of an amount equal to the sum of all deductions claimed by the taxpayer in respect of the depreciation of the asset.

“(9) This section shall, so far as it is applicable and with any necessary modifications, apply in any case where, for any reason, including—

“(a) The formation or dissolution of a partnership; or

“(b) A variation in the constitution of a partnership, or in the interests of the partners,—

a taxpayer sells or otherwise disposes of a share or interest in any property or a change has occurred in the ownership of, or in the share or interest of a taxpayer in, any property and this section would apply if the taxpayer had been the sole owner of the property.

“(10) In this section, ‘disposal’—

“(a) Includes—

“(i) The acquisition of property of a taxpayer by any person empowered to do so by statutory authority;

“(ii) Ceasing to use in New Zealand and taking out of New Zealand for use outside New Zealand any property of a taxpayer in respect of which a first-year allowance has been granted under section 112 of this Act (other than under subsection (8) of that

section), except where the Commissioner is satisfied that—

“(A) The property has been taken out of New Zealand only temporarily; and

“(B) The property will, after its return to New Zealand, be used in or for the purpose of a business in New Zealand:

“(iii) In any income year, any change of use, or change of location of use, occurring in a preceding income year, as a consequence of which the application of section 108A of this Act gives rise to a nil deduction on account of depreciation for that subsequent income year, in which case the property shall be deemed to have been disposed of on the first day of that subsequent income year and no deduction on account of depreciation shall be claimed in that subsequent income year:

“(iv) Any event whereby the rights which constitute or are part of an item of intangible property will no longer be able to be exercised, at any time, by the taxpayer who owns that property:

“(v) Any event as a consequence of which the property is irreparably damaged; but

“(b) Does not include, in the case of intangible property, the disposal of that property as part of an arrangement to replace it with property of the same type.

“(11) For the purposes of this section,—

“(a) The terms ‘depreciable property’ and ‘software’ have the same meaning as in section 107A (1) of this Act; and

“(b) The adjusted tax value of depreciable property is, subject to paragraph (c) of this subsection, the same as the adjusted tax value of that property under section 107A (1) of this Act; and

“(c) The adjusted tax value of software is nil if—

“(i) It is disposed of to an associated person; and

“(ii) A deduction has been claimed for its purchase costs or creation costs; and

“(d) The consideration derived from any disposition of property shall be treated as the amount so derived less any amount payable by the taxpayer in disposing of the property (not being an amount otherwise deductible under this Act).”

(2) Section 117 of the principal Act (as substituted by subsection (1) of this section) shall, in relation to intangible property, come into force on the 1st day of April 1993.

14. Expenditure on land improvements used for farming or agriculture—(1) Section 128A(4)(a) of the principal Act (as inserted by section 12 of the Income Tax Amendment Act (No. 4) 1986 and substituted by section 18 of the Income Tax Amendment Act (No. 2) 1992) is hereby amended—

- (a) By omitting from subparagraph (i)(B) the expression “; and”, and substituting the expression “; or”;
- (b) By adding to subparagraph (i) the following subparagraph:
“(C) Incurred by the taxpayer on or after the 1st day of April 1993 and before the end of the taxpayer’s 1994–95 income year; and”;
- (c) By omitting from subparagraph (ii) the expression “1st day of April 1993”, and substituting the expression “end of the taxpayer’s 1994–95 income year”;
- (d) By omitting from subparagraph (ii) the expression “section 108A(1)”, and substituting the expression “section 108N(1)”.

(2) The said section 128A(4) is hereby amended by inserting, after paragraph (a), the following paragraph:

- “(aa) Where the expenditure is incurred in the taxpayer’s 1995–96 income year or in any subsequent year, an amount calculated in accordance with the following formula:

$$1.20 \times a \times b$$

where—

- “a is the percentage specified in Part I of the Thirteenth Schedule to this Act in relation to the item of expenditure; and
- “b is the diminished value of that item of expenditure.”

15. Expenditure on land improvements used for forestry—(1) Section 128B(4)(a) of the principal Act (as inserted by section 12 of the Income Tax Amendment Act (No. 4) 1986 and substituted by section 19 of the Income Tax Amendment Act (No. 2) 1992) is hereby amended—

- (a) By omitting from subparagraph (i)(B) the expression “; and”, and substituting the expression “; or”;
- (b) By adding to subparagraph (i) the following subparagraph:
“(C) Incurred by the taxpayer on or after the 1st day of April 1993 and before the end of

the taxpayer's 1994-95 income year; and”:

- (c) By omitting from subparagraph (ii) the expression “1st day of April 1993”, and substituting the expression “end of the taxpayer's 1994-95 income year”:
- (d) By omitting from subparagraph (ii) the expression “section 108A (1)”, and substituting the expression “section 108N (1)”.

(2) The said section 128B (4) is hereby amended by inserting, after paragraph (a), the following paragraph:

“(aa) Where the expenditure is incurred in the taxpayer's 1995-96 income year or in any subsequent year, an amount calculated in accordance with the following formula:

$$1.20 \times a \times b$$

where—

- “a is the percentage specified in Part II of the Thirteenth Schedule to this Act in relation to the item of expenditure; and
- “b is the diminished value of that item of expenditure.”

16. Expenditure on improvements in relation to aquaculture—(1) Section 128c (4) (a) of the principal Act (as inserted by section 12 of the Income Tax Amendment Act (No. 4) 1986 and substituted by section 20 of the Income Tax Amendment Act (No. 2) 1992) is hereby amended—

- (a) By omitting from subparagraph (i) (B) the expression “; and”, and substituting the expression “; or”:
- (b) By adding to subparagraph (i) the following subparagraph:
“(C) Incurred by the taxpayer on or after the 1st day of April 1993 and before the end of the taxpayer's 1994-95 income year; and”:
- (c) By omitting from subparagraph (ii) the expression “1st day of April 1993”, and substituting the expression “end of the taxpayer's 1994-95 income year”:
- (d) By omitting from subparagraph (ii) the expression “section 108A (1)”, and substituting the expression “section 108N (1)”.

(2) The said section 128c (4) is hereby amended by inserting, after paragraph (a), the following paragraph:

“(aa) Where the expenditure is incurred in the taxpayer's 1995-96 income year or in any subsequent year, an

amount calculated in accordance with the following formula:

$$1.20 \times a \times b$$

where—

- “a is the percentage specified in Part III of the Thirteenth Schedule to this Act in relation to the item of expenditure; and
- “b is the diminished value of that item of expenditure.”

17. Deductions by lessor of land used for farming or agricultural purposes—Section 131 of the principal Act is hereby amended by repealing paragraph (a).

18. Premium paid in respect of lease of land—(1) Section 137 (2) of the principal Act is hereby amended by inserting, after the words “the renewal of the lease”, the words “being a grant or renewal occurring before the 1st day of April 1993”.

(2) This section shall come into force on the 1st day of April 1993.

19. Premium paid in respect of leased machinery—(1) Section 139 (1) of the principal Act is hereby amended—

- (a) By inserting, after the words “in respect of the lease”, the words “before the 1st day of April 1993”;
- (b) By inserting, after the words “the renewal of any such lease”, the words “before the 1st day of April 1993”.

(2) This section shall come into force on the 1st day of April 1993.

20. Accounting for goods and services tax—(1) Section 140B of the principal Act (as inserted by section 29 (1) of the Income Tax Amendment Act (No. 4) 1986) is hereby amended by omitting from subsection (6) all the words before paragraph (a), and substituting the words “For the purposes of section 108 of this Act, where any depreciation deduction for any property is calculated by reference to the cost price of that property, that cost price shall be—”.

(2) Section 140B of the principal Act (as so inserted) is hereby amended by omitting from subsection (6A) (as inserted by section 21 (1) of the Income Tax Amendment Act (No. 2) 1992), the expression “section 108A”, and substituting the expression “section 108N”.

21. Purchase of patent rights—(1) Section 142 (1) of the principal Act is hereby amended by inserting, after the word “purchase”, the words “before the 1st day of April 1993”.

(2) This section shall come into force on the 1st day of April 1993.

22. Patent expenses—(1) Section 143 (2) of the principal Act is hereby amended by inserting, after the words “expenditure incurred”, the words “before the 1st day of April 1993”.

(2) This section shall come into force on the 1st day of April 1993.

23. Expenditure on scientific research—(1) Section 144 (1) (a) of the principal Act (as substituted by section 12 (1) of the Income Tax Amendment Act (No. 3) 1986) is hereby amended by inserting, after the words “relates to an asset”, the words “(not being an asset created from the scientific research)”.

(2) Section 144 (1) (b) of the principal Act (as substituted by section 12 (1) of the Income Tax Amendment Act (No. 3) 1986) is hereby amended by omitting the words “(being an asset to which the provisions of section 113 of this Act do not apply)”.

(3) Subsection (1) of this section shall come into force on the 1st day of April 1992.

24. Government grants to business—Section 169 of the principal Act is hereby amended by repealing both subsection (3A) (as inserted by section 38 of the Income Tax Amendment Act 1980) and subsection (4).

25. Special provisions relating to dispositions of property—(1) Section 191N (1) of the principal Act (as inserted by section 13 (1) of the Income Tax Amendment Act (No. 5) 1992) is hereby amended by repealing paragraph (d), and substituting the following paragraphs:

“(ca) The transferee shall, where the transferor entered into a binding contract to purchase or construct any depreciable property before the 16th day of December 1991, be deemed to have entered into that binding contract on the same date as the transferor; and

“(d) The transferee shall be deemed to have acquired the property from the transferor for consideration equal to,—

“(i) Except where the property forms all or part of a pool of property that is depreciated by the transferor in accordance with section 108j of this Act, the aggregate of the following amounts of expenditure incurred by the transferor in respect of the property before the disposition to the transferee in fact takes place, being in every case expenditure in respect of which no deduction has been allowed under this Act (other than by way of a deduction in respect of the depreciation or amortisation of the acquisition cost of the property under any of sections 108, 137, and 142 of this Act or any other amortisation provisions of this Act):

“(A) The original purchase price of the property; and

“(B) Any expenditure incurred in purchasing or improving the property; and

“(C) Any expenditure incurred in securing or improving the legal rights of the transferor in relation to the property:

“(ii) Where the property forms the whole of a pool of property that is depreciated by the transferor in accordance with section 108j of this Act, the adjusted tax value (within the meaning of sections 107A and 108j of this Act) of the pool immediately before the property was disposed of to the transferee:

“(iii) Where the property forms part only of any such pool, the lesser of—

“(A) The market value of the property disposed of to the transferee; and

“(B) The adjusted tax value (within the meaning of sections 107A and 108j of this Act) of the whole of the pool immediately before the property was disposed of to the transferee.”

(2) Section 191N (2) of the principal Act (as so inserted) is hereby amended by inserting, after the words “any depreciating property”, the words “(other than pooled property)”.

26. Profits of mutual associations in respect of transactions with members—Section 199 (4) of the principal Act is hereby amended by repealing paragraph (b) (as amended by section 25 of the Income Tax Amendment Act 1979 and

section 25 (2) (e) of the Income Tax Amendment Act (No. 3) 1983).

27. Repeal of certain spent provisions in relation to depreciation—The following provisions of the principal Act are hereby repealed:

- (a) Subsections (3), (5), and (6) of section 110 (which relate to certain depreciation allowances on motorcars):
- (b) Section 112 (which relates to first year depreciation allowances):
- (c) Section 113 (which relates to additional depreciation allowances for plant, machinery, and equipment used for scientific research):
- (d) Section 114 (which relates to depreciation allowances for approved tractor safety frames):
- (e) Section 114A (which relates to depreciation allowances for approved taxicab safety devices):
- (f) Section 114c (which relates to additional depreciation allowances for newly constructed private rental housing):
- (g) Section 115 (which relates to additional depreciation allowances on certain capital expenditure in relation to fishing boats):
- (h) Section 116 (which relates to depreciation allowances for capitalised demolition costs and residual values of certain buildings used as export slaughterhouses and packing houses):
- (i) Section 118 (which contains general provisions relating to investment allowances):
- (j) Section 122 (which relates to investment allowances on plant and machinery for use for farming or agricultural purposes):
- (k) Section 123 (which relates to investment allowances on fishing boats and certain fishing plant and machinery):
- (l) Section 125 (which relates to certain expenditure relating to energy conservation):
- (m) The Third, Fifth, and Sixth Schedules.

28. Consequential repeals—The enactments specified in the first column of the Second Schedule to this Act are hereby amended by repealing the provisions specified in the second column of that Schedule.

29. New Schedules added—The principal Act is hereby amended by adding the new Twenty-first, Twenty-second, and Twenty-third Schedules set out in the First Schedule to this Act.

SCHEDULES

FIRST SCHEDULE

NEW SCHEDULES ADDED TO PRINCIPAL ACT
 “TWENTY-FIRST SCHEDULE
 DEPRECIABLE LAND IMPROVEMENTS

Section 29
 Section 107A (1)

1. Airport runways.
2. Bores and wells.
3. Bridges.
4. Chimneys.
5. Culverts.
6. Dams.
7. Fences.
8. Hardstanding.
9. Reservoirs.
10. Retaining walls.
11. Roads.
12. Spillways.
13. Swimming pools.
14. Tanks.
15. Tunnels.
16. Wharves.

“TWENTY-SECOND SCHEDULE
 DEPRECIABLE INTANGIBLE PROPERTY

Section 107A (1)

1. The right to use a copyright.
 2. The right to use a design or model, plan, secret formula or process, or other like property right.
 3. A patent or the right to use a patent.
 4. The right to use land.
 5. The right to use plant or machinery.
 6. The copyright in software, the right to use the copyright in software, or the right to use software.
 7. The right to use a trademark.
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FIRST SCHEDULE—*continued*NEW SCHEDULES ADDED TO PRINCIPAL ACT—*continued*Sections 108c (5),
108i (3)

“TWENTY-THIRD SCHEDULE

“BANDED RATES OF DEPRECIATION

Diminishing Value Depreciation Rate	Straight Line Equivalent
2	1.5
4	3
6	4
7.5	5.5
9.5	6.5
12	8
15	10
18	12.5
22	15.5
26	18
33	24
40	30
50	40
63.5	63.5
100	100

FIRST SCHEDULE—*continued*NEW SCHEDULES ADDED TO PRINCIPAL ACT—*continued*

"TWENTY-FOURTH SCHEDULE

Section 108H (3)

STRAIGHT LINE EQUIVALENTS OF DIMINISHING VALUE
RATES OF DEPRECIATION

Diminishing Value Depreciation Rate	Straight Line Equivalent
1	1
2	1.5
2.5	2
3	2.5
4	3
5	3.5
6	4
7	5
7.5	5.5
8	6
9.5	6.5
10	7
11	7.5
12	8
13	8.5
13.5	9
14	9.5
15	10
16	10.5
16.5	11
17	11.5
17.5	12
18	12.5
19	13
20	13.5
20.5	14
21	14.5
21.5	15
22	15.5
23	16
24	16.5
24.5	17
25	17.5
26	18
27	18.5
27.5	19
28	19.5
28.5	20
29	20.5
30	21
31	22
32	22.5
32.5	23
33	24

FIRST SCHEDULE—*continued*NEW SCHEDULES ADDED TO PRINCIPAL ACT—*continued*“TWENTY-FOURTH SCHEDULE—*continued*”STRAIGHT LINE EQUIVALENTS OF DIMINISHING VALUE
RATES OF DEPRECIATION—*continued*

Diminishing Value Depreciation Rate	Straight Line Equivalent
34	24.5
34.5	25
35	25.5
36	26
37	27
38	27.5
39	28
39.5	29
40	30
41	31
42	32
43	32.5
44	33
45	33.5
45.5	34
46	34.5
46.5	35
47	35.5
47.5	36
48	36.5
48.5	37
49	39
50	40
50.5	41
51	42
52	43
53	44
54	45
55	45.5
56	46
57	47
58	47.5
60	48
61	49
62	50
63	51
63.5	63.5
64	64
65	65
66	66
67	67
68	68
69	69

FIRST SCHEDULE—*continued*NEW SCHEDULES ADDED TO PRINCIPAL ACT—*continued*"TWENTY-FOURTH SCHEDULE—*continued*STRAIGHT LINE EQUIVALENTS OF DIMINISHING VALUE
RATES OF DEPRECIATION—*continued*

Diminishing Value Depreciation Rate	Straight Line Equivalent
70	70
71	71
72	72
73	73
74	74
75	75
76	76
77	77
78	78
79	79
80	80
81	81
82	82
100	100

Section 28

SECOND SCHEDULE
CONSEQUENTIAL REPEALS

Act	Provisions repealed
1977, No. 81—The Income Tax Amendment Act (No. 2) 1977	Sections 16, 18, and 21.
1978, No. 28—The Income Tax Amendment Act 1978	Sections 23 (1), 24, 25, 27, and 28.
1979, No. 18—The Income Tax Amendment Act 1979	Sections 25, 34, 54, 55, 56, and 57.
1980, No. 28—The Income Tax Amendment Act 1980	Sections 26 and 38.
1980, No. 69—The Income Tax Amendment Act (No. 2) 1980	Section 2 (1) and (3) and section 6.
1981, No. 33—The Income Tax Amendment Act 1981	Sections 15 and 31.
1982, No. 142—The Income Tax Amendment Act (No. 2) 1982	Sections 17, 21, and 37 (2), (3), and (5).
1983, No. 139—The Income Tax Amendment Act (No. 3) 1983	Sections 18 (2), 25 (2) (e), 54 (3), 55, 56, and 57.
1985, No. 59—The Income Tax Amendment Act (No. 2) 1985	Sections 16 (2), 18, 19 (1) and (3), and 20.
1986, No. 41—The Income Tax Amendment Act (No. 3) 1986	Section 4 (1), (3), (4), and (5), and sections 5, 6, 7, 8, 10, and 11.
1986, No. 117—The Income Tax Amendment Act (No. 4) 1986	Sections 11 (2) (a) and 28 (1) and (2).
1988, No. 133—The Income Tax Amendment Act (No. 4) 1988	The whole Act.

This Act is administered in the Inland Revenue Department.
