



ANALYSIS

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1987, No. 104

An Act to amend the Income Tax Act 1976

[22 June 1987]

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

1. Short Title—This Act may be cited as the Income Tax Amendment Act (No. 2) 1987, and shall be read together with and deemed part of the Income Tax Act 1976 (hereinafter referred to as the principal Act).

2. Rates of income tax for year commencing on 1 April 1987—(1) Subject to this section, for the year commencing on the 1st day of April 1987, income tax shall be assessed, levied, and paid pursuant to Part IV of the principal Act at the basic rates specified in the First Schedule to the principal Act (as amended by section 15 of the Income Tax Amendment Act (No. 2) 1986).

(2) Subsection (1) of this section shall not apply to—

(a) Any income tax where the amount of that income tax is determined exclusively and finally pursuant to any provision of Part XI or Part XII of the principal Act; or

(b) Any non-resident withholding tax.

3. Rate of excess retention tax for year commencing 1 April 1987—For the year commencing on the 1st day of April 1987, excess retention tax shall be assessed, levied, and paid pursuant to Part V of the principal Act at the rate specified in clause 11 of Part A of the First Schedule to that Act.

4. Repeal—The Income Tax (Annual) Act 1986 is hereby repealed.

5. Interpretation—(1) Section 2 of the principal Act is hereby amended by inserting in paragraph (b) of the definition of the term “herd livestock” (as inserted by section 3 of the Income Tax Amendment Act (No. 4) 1986), after the words “owned by that taxpayer”, the words “and used by that taxpayer or any other person”.

(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 1986 and in every subsequent year.

6. When objections may be referred in the first instance to the High Court—(1) Subsection (11A) of section 33 of the principal Act (as inserted by section 4 of the Income Tax Amendment Act 1987) is hereby amended by omitting the expression “64E (5)”, and substituting the expression “64E (6)”.

(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.

7. Rebate from tax payable by non-resident companies in respect of income from special development projects—(1) Section 42 (1) of the principal Act is hereby

amended by inserting in the definition of the expression “the first specified period”, after the words “means the period”, the words “(if any)”.

(2) Section 42 (1) of the principal Act is hereby further amended by adding to the definition of the term “the second specified period”, the following proviso:

“Provided that for the purposes of paragraph (a) of this definition, where the Order in Council does not specify any period as the first specified period, the second specified period shall be the period commencing with the accounting year of that company in respect of which that Order in Council first applies.”

(3) Section 42 (4) of the principal Act is hereby amended—

(a) By inserting, after the words “that specified industrial undertaking during such accounting years of that company”, the words “, whether commencing before, on, or after the date on which the Order in Council is made,”:

(b) By inserting in paragraph (a), after the words “as comprising the first specified period”, the words “(if any)”.

8. Incomes wholly exempt from tax—(1) Section 61 of the principal Act is hereby amended by adding the following paragraph:

“(56) Income derived—

“(a) By any trustee of the New Zealand Agent Orange Trust from the corpus of the Trust to the extent that it represents—

“(i) The settlement fund; and

“(ii) All accretions of income attributable to the settlement fund; and

“(b) By any beneficiary of the Trust by way of any distributions to the beneficiary from the Trust.”

(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 1987 and in every subsequent year.

9. Interpretation—(1) Section 64B (1) of the principal Act (as inserted by section 2 of the Income Tax Amendment Act 1987) is hereby amended by inserting in paragraph (b) (ii) of the definition of the term “acquisition price”, before the words “price at which”, the word “lowest”.

(2) Section 64B(1) of the principal Act (as so inserted) is hereby further amended by repealing paragraph (c) of the definition of the term “acquisition price”, and substituting the following paragraphs:

“(c) In relation to a holder where section 64J of this Act does not apply and the financial arrangement is not a trade credit,—

“(i) The value of all consideration provided by the holder in relation to the financial arrangement; and

“(ii) Less the value of all consideration provided by the holder in relation to the financial arrangement if the amount of that consideration is not contingent on the implementation of that financial arrangement, except to the extent that that consideration exceeds 2 percent of the consideration referred to in subparagraph (i) of this paragraph:

“(d) In relation to an issuer where section 64J of this Act does not apply and the financial arrangement is not a trade credit,—

“(i) The value of all consideration provided to the issuer in relation to the financial arrangement; and

“(ii) The value of all consideration provided by the issuer in relation to the financial arrangement if the amount of that consideration is not contingent on the implementation of that financial arrangement, except to the extent that that consideration exceeds 2 percent of the consideration referred to in subparagraph (i) of this paragraph:”.

(3) Section 64B(1) of the principal Act (as so inserted) is hereby further amended—

(a) By inserting in paragraph (g) in the definition of the term “excepted financial arrangement”, before the word “Shares” where it first appears, the words “In relation to a holder or an issuer”; and

(b) By adding to the said paragraph (g) the words “, where those shares were or that option was acquired or issued by the person before 8.00 p.m. New Zealand Standard Time on the 18th day of June 1987”.

(4) Section 64B(1) of the principal Act (as so inserted) is hereby further amended by inserting, after paragraph (g) of the definition of the term “excepted financial arrangement”, the following paragraph:

“(ga) In relation to a holder or an issuer, shares, other than withdrawable shares (as defined in section 194A of this Act), or an option to acquire or to sell or otherwise dispose of shares, other than withdrawable shares (as so defined), where those shares were or that option was acquired or issued by the person after 8.00 p.m. New Zealand Standard Time on the 18th day of June 1987.”

(5) Section 64B (1) of the principal Act (as so inserted) is hereby further amended by adding to the definition of the term “excepted financial arrangement” the following paragraph:

“(j) In relation to an issuer or a holder, an option to acquire or to sell or otherwise dispose of property (other than an interest in a financial arrangement) where the option was issued or acquired by the person after 8.00 p.m. New Zealand Standard Time on the 18th day of June 1987 for private or domestic purposes only.”

(6) Section 64B (1) of the principal Act (as so inserted) is hereby further amended by omitting all the words after paragraph (c) of the definition of the term “financial arrangement”, and substituting the words “but shall not include any excepted financial arrangement that is not part of a financial arrangement”.

(7) Section 64B (1) of the principal Act (as so inserted) is hereby further amended by omitting from the definition of the term “holder” the words “would be entitled to receive”, and substituting the words “would be entitled to receive, or would receive a pecuniary benefit from,”.

(8) Section 64B (1) of the principal Act (as so inserted) is hereby further amended by repealing the definition of the term “lease”, and substituting the following definition:

“ ‘Lease’ means—

“(a) A lease within the meaning of section 222A (1) of this Act:

“(b) An arrangement in relation to—

“(i) Real property; or

“(ii) Livestock; or

“(iii) Bloodstock,—

that, if it were not in relation to property of that kind, would be a lease within the meaning of paragraph (a) of this definition.”

(9) Section 64B(1) of the principal Act (as so inserted) is hereby further amended by inserting, after the definition of the term “money”, the following definitions:

“‘Secured arrangement’ means an arrangement the failure to perform which is secured against by a financial arrangement:

“‘Security arrangement’ means a financial arrangement that secures the holder against failure of any person to perform their obligations under a secured arrangement:

“‘Security payment’ means money received by the holder of a security arrangement to the extent that the money is received in relation to a loss incurred due to the failure of performance of the secured arrangement and the value of the money is taken into account in determining the holder’s assessable income in any income year.”.

(10) 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.

10. Accruals in relation to income and expenditure in respect of financial arrangements—(1) Section 64C(1) of the principal Act (as inserted by section 2 of the Income Tax Amendment Act 1987) is hereby amended by repealing paragraph (b), and substituting the following paragraph:

“(b) All amounts of money directly related to the financial arrangement but not contingent upon the implementation of the financial arrangement, to the extent that the total of those amounts exceeds an amount equal to—

“(i) In the case of a holder, 2 percent of the value of all consideration provided by the holder in relation to the financial arrangement; and

“(ii) In the case of an issuer, 2 percent of the value of all consideration provided to the issuer in relation to the financial arrangement.”.

(2) Section 64C(4)(d) of the principal Act (as so inserted) is hereby amended by omitting the word “method”, and substituting the words “market, the method,”.

(3) Section 64C(5) of the principal Act (as so inserted) is hereby amended by adding the following paragraph:

“(c) In relation to a financial arrangement where—

“(i) The financial arrangement is held by a trustee upon trust for the management of compensation paid for personal injury where that compensation is paid pursuant to the Workers Compensation Act 1956 or the Accident Compensation Act 1972 or the Accident Compensation Act 1982 or an order of Court; and

“(ii) The trustee is, or if it were a natural person would be, a cash basis holder in respect of the financial arrangement.”

(4) 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.

11. Excepted financial arrangement that is part of financial arrangement—(1) The principal Act is hereby amended by inserting, after section 64C (as inserted by section 2 of the Income Tax Amendment Act 1987), the following section:

“64CA. The amount of the income deemed to be derived or the expenditure deemed to be incurred by a person in respect of a financial arrangement under sections 64B to 64M of this Act shall not include the amount of any income, gain or loss, or expenditure, that is solely attributable to an excepted financial arrangement that is part of the financial arrangement.”

(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.

12. Determinations—(1) Section 64E (1) (d) of the principal Act (as inserted by section 2 of the Income Tax Amendment Act 1987) is hereby amended by omitting the words “method or methods”, and substituting the words “market, the method or methods,”.

(2) Section 64E (1) of the principal Act (as so inserted) is hereby further amended by repealing paragraph (e), and substituting the following paragraph:

“(e) Where a financial arrangement includes an excepted financial arrangement, the method for determining the part of—

“(i) The income, gain or loss, or expenditure:

“(ii) The acquisition price:

“(iii) The consideration receivable by the holder or payable by the issuer,—

that is attributable to the excepted financial arrangement.”.

(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.

13. Base price adjustment—(1) Section 64F(2) of the principal Act (as inserted by section 2 of the Income Tax Amendment Act 1987) is hereby amended by repealing subparagraph (ii) of item “a”, and substituting the following subparagraph:

“(ii) In the case of an issuer, the amount of all consideration that has been paid, and all further consideration that has or will become payable, by the person—”.

(2) Section 64F(2) of the principal Act (as so inserted) is hereby further amended by omitting from item “c” the words “or be deemed”, and substituting the words “or deemed”.

(3) Section 64F(6) of the principal Act (as so inserted) is hereby amended by inserting in the proviso, before the word “dealing”, the words “holding or”.

(4) Section 64F of the principal Act (as so inserted) is hereby further amended by adding the following subsections:

“(7) Where an obligation to give consideration in relation to a financial arrangement is forgiven before the 1st day of October 1987 and—

“(a) The forgiveness is made in consideration of natural love and affection; and

“(b) The amount forgiven would, but for this subsection, be taken into account in determining the assessable income in an income year of a person pursuant to sections 64B to 64M of this Act,—

the forgiveness shall, notwithstanding the provisions of the said sections 64B to 64M (other than this provision), not be taken into account in determining the person’s assessable income in the income year.

“(8) Notwithstanding anything in this Act, where and to the extent that a person (hereinafter called the surety) suffers expenditure or a loss under a security arrangement and the expenditure or loss, in whole or in part, is due to—

“(a) The actions of; or

“(b) The occurrence, or failure to occur, of an event that was potentially or actually subject to the influence of—

the surety or any person with whom the surety was, during the term of the security arrangement, an associated person, no deduction shall be allowed to the surety or any person in relation to the expenditure or loss.”

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

14. Accrued income written off—(1) Section 64G (2) of the principal Act (as inserted by section 2 of the Income Tax Amendment Act 1987) is hereby amended by inserting, before the word “dealing”, the words “holding or”.

(2) Section 64G of the principal Act (as so inserted) is hereby amended by adding the following subsection:

“(3) Where a person receives a security payment in relation to a loss and a deduction is not allowable for the loss in calculating the assessable income of the person other than under this subsection, the person shall be allowed a deduction for the loss no greater than the amount of the security payment.”

(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 every subsequent income year.

15. Inter-related arrangements—(1) Section 64H (2) of the principal Act (as inserted by section 2 of the Income Tax Amendment Act 1987) is hereby amended by omitting all the words after the word “where”, and substituting the words “the making of such financial arrangements is a generally accepted commercial practice”.

(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.

16. Transitional provision for variable principal debt instruments—(1) Section 64K of the principal Act (as inserted by section 2 of the Income Tax Amendment Act 1987) is hereby amended—

- (a) By inserting, before the words “Any person”, the words “Notwithstanding anything in this Act”; and
- (b) By omitting from paragraph (a) the word “assessable”, and substituting the word “derived”; and
- (c) By omitting from paragraph (b) the words “which is assessable under sections 64B to 64M”, and

substituting the words “that is deemed to be assessable income under section 65 (2) (jb)”.

(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.

17. Relationship with rest of Act—(1) Section 64L of the principal Act (as inserted by section 2 of the Income Tax Amendment Act 1987), is hereby amended by omitting the word “where”, and substituting the words “in an income year in which”.

(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.

18. Application—(1) Section 64M (b) of the principal Act (as inserted by section 2 of the Income Tax Amendment Act 1987) is hereby amended by adding the following proviso:

“Provided that this paragraph shall not apply in relation to a rollover, extension, or advance provided for before the implementation date in relation to the financial arrangement where the rollover, extension, or advance occurs on or after the 1st day of April 1990; or”.

(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.

19. Treatment of shortages of bailed or leased specified livestock—(1) The principal Act is hereby amended by inserting, after section 85A (as inserted by section 6 of the Income Tax Amendment Act (No. 4) 1986), the following section:

“85B. Where a taxpayer has entered into a bailment, lease, or other agreement to use specified livestock (whether or not the agreement also relates to any other livestock) and the taxpayer has to return the specified livestock or has to pay full compensation for the specified livestock, at a future date, the taxpayer shall be deemed to own and shall take into account as trading stock at the end of each income year, in relation to each class of specified livestock (being a class of specified livestock set out in column 2 of the Twelfth Schedule to this Act), the number of specified livestock calculated in accordance with the following formula:

a — b

where—

a is the total of the number of specified livestock of that class that is, as at the end of the income year,—

“(i) Owned by the taxpayer; and

“(ii) Is at the taxpayer’s use under any such bailment, lease, or other agreement; and

b is the total of the number of specified livestock of that class that the taxpayer has been given the use of under any such bailment, lease, or other agreement that, as at the end of the income year, is still in force.”

(2) This section shall apply in relation to livestock owned, bailed, leased, or used by a taxpayer in the income year that commenced on the 1st day of April 1986 and in every subsequent year.

20. Standard value of livestock—(1) Section 86 of the principal Act (as amended by section 7 of the Income Tax Amendment Act (No. 4) 1986) is hereby amended—

(a) By omitting from paragraph (b) of the definition of the term “deductible excess” the words “the standard value of that specified livestock”, and substituting the words “the standard value of that livestock”:

(b) By omitting from subsection (4) (b) (i) (B) the words “be determined in accordance with the provisions of this subsection”.

(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 1986 and in every subsequent year.

21. Valuation of herd livestock—(1) Section 86A of the principal Act (as inserted by section 8 of the Income Tax Amendment Act (No. 4) 1986) is hereby amended by repealing subsection (3), and substituting the following subsection:

“(3) Notwithstanding anything in section 85 (3) of this Act, where any taxpayer has elected in accordance with the provisions of section 85A of this Act that the value of any herd livestock of that taxpayer at the end of any income year is to be determined in accordance with the provisions of this section, the value of that herd livestock to be taken into account at the beginning of that income year (not being the income year next succeeding an income year in which the value of that herd livestock or any herd livestock of that taxpayer of the same type as that herd livestock was determined otherwise than in

accordance with the provisions of this section), shall be the herd value of that herd livestock for that income year.”

(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 1986 and in every subsequent year.

22. Deduction in respect of livestock revaluation—

(1) Section 86E (2) of the principal Act (as inserted by section 8 (1) of the Income Tax Amendment Act (No. 4) 1986) is hereby amended by omitting from item “a (ii)” the words “pursuant to section 85 (4C) of this Act”, and substituting the words “as determined for the purposes of the Estate and Gift Duties Act 1968”.

(2) Section 86E (3) of the principal Act (as so inserted) is hereby amended by omitting the words “, in relation to any class of specified livestock, of the amount (if any) calculated in accordance with the following formula”, and substituting the words, “of a positive amount (if any) equal to the sum of the amounts (whether positive or negative) calculated (subject to subsection (3A) of this section) for each class of specified livestock in accordance with the following formula:”.

(3) Section 86E of the principal Act (as so inserted) is hereby further amended by inserting, after subsection (3), the following subsection:

“(3A) The amount for each class of specified livestock as calculated using the formula provided for in subsection (3) of this section shall not be less than zero where item “a” of the formula is greater than zero.”

(4) 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.

23. Spreading of income from livestock revaluation—

(1) Section 86F (1) of the principal Act (as inserted by section 8 (1) of the Income Tax Amendment Act (No. 4) 1986) is hereby amended by repealing the definition of the term “livestock revaluation income”, and substituting the following definition:

“‘Livestock revaluation income’, in relation to any specified livestock owned by any taxpayer at the end of the income year ending with the 31st day of March 1987, means the amount (if a positive amount) remaining after deducting the amount of any deduction allowed to the taxpayer under section 86E (3) of this Act from the sum of the amounts

(whether positive or negative) calculated for each class of specified livestock owned by the taxpayer in accordance with the following formula:

$$a \times (b - c)$$

where—

a is, at the taxpayer's option (such option being exercised subject to subsection (1A) of this section),—

(i) The lesser of—

(A) The number of specified livestock of that class of specified livestock (hereafter in this definition referred to as the existing livestock) owned by that taxpayer at the end of that income year:

(B) The number of specified livestock (of that class of specified livestock under which the existing livestock would have been classified at the beginning of that income year had that existing livestock been owned by that taxpayer at the beginning of that income year) owned by that taxpayer at the beginning of that income year; or

(ii) The lesser of—

(A) The number of specified livestock of that class of specified livestock (hereafter in this definition referred to as the existing livestock) owned by that taxpayer at the end of that income year:

(B) The number of specified livestock of that class owned by the taxpayer at the beginning of that income year; and

b is the value at which specified livestock of the same class of specified livestock as that existing livestock is to be taken into account by the taxpayer at the end of that income year; and

c is the value at which specified livestock of that class is to be taken into account by the taxpayer at the beginning of that income year or, if no specified livestock of that class of specified livestock are on hand at the beginning of that income year, the value that the Commissioner is satisfied, having regard to the basis on which the taxpayer valued livestock of that class in previous years and to any other relevant facts, would have been taken into account at the beginning of that income year by that taxpayer had

specified livestock of that class been on hand at the beginning of that income year.”

(2) Section 86F (as so inserted) is hereby further amended by inserting, after subsection (1), the following subsection:

“(1A) Where any taxpayer exercises the option provided for in item “a” in the definition of the term ‘livestock revaluation income’ in relation to any class of livestock, that option shall apply to each of the other classes of livestock within the type of livestock in which the first-mentioned class of livestock is included.”

(3) Section 86F (as so inserted) of the principal Act is hereby further amended by inserting, after subsection (5), the following subsection:

“(5A) For the purposes of this section, where in the income year ending with the 31st day of March 1987 any specified livestock is transferred from any person (hereafter in this subsection referred to as the transferor) to any other person (hereafter in this subsection referred to as the transferee) in accordance with a matrimonial agreement, the transferee shall be deemed to have owned, at the beginning of the income year ending with the 31st day of March 1987, such of the livestock owned by the transferor on any day of that income year as the Commissioner is satisfied (having regard to the tenor of the matrimonial agreement, any wishes of the parties expressed therein, the marital status of the transferor and the transferee at all material times, and such other information as is in the possession of the Commissioner) would have been owned by the transferee on that day had any entitlement of the transferee to the ownership of any livestock owned by the transferor on that day been recognised by possession by the transferee of a separate title; and the number of livestock owned by the transferor at the beginning of the income year ending with the 31st day of March 1987 shall be deemed to be reduced by the number of livestock deemed to have been owned by the transferee on that day in accordance with this subsection.”

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

24. Valuation of bloodstock—(1) Section 86H (2) of the principal Act (as inserted by section 8 (1) of the Income Tax Amendment Act (No. 4) 1986) is hereby amended by repealing paragraph (a), and substituting the following paragraph:

“(a) In relation to the first income year in which the bloodstock is first used by the taxpayer for breeding purposes in the course of the conduct of the business of breeding livestock, the amount that remains after deducting from the cost price the specified write-down in relation to that bloodstock.”.

(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 1987 and in every subsequent year.

25. Accrual expenditure—(1) Section 104A (1) of the principal Act (as inserted by section 11 of the Income Tax Amendment Act 1986) is hereby amended by omitting from paragraph (d) of the definition of the term “accrual expenditure” the expression “1986; or”, and substituting the expression “1986.”.

(2) Section 104A (2) of the principal Act (as so inserted) is hereby amended by adding the following paragraph:

“(c) Where the expenditure relates to a payment for, or in relation to, a chose in action, the amount that relates to the unexpired part of the period in relation to which the chose is enforceable.”

(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.

26. Certain deductions not permitted—(1) Section 106 (1) (h) of the principal Act (as amended by section 12 (3) of the Income Tax Amendment Act 1987) is hereby amended by omitting subparagraph (i), and substituting the following subparagraphs:

“(i) It is payable in gaining or producing the assessable income for any income year; or

“(ia) It is necessarily payable in carrying on a business for the purpose of gaining or producing the assessable income for any income year; or”.

(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.

27. Certain expenditure on land used for forestry purposes—(1) Section 127A (4) of the principal Act (as inserted by section 11 of the Income Tax Amendment Act (No. 4) 1986) is hereby amended by omitting the words “30th day of

December 1986”, and substituting the words “31st day of December 1986”.

(2) This section shall apply with respect to expenditure incurred in the income year that commenced on the 1st day of April 1987 and in every subsequent year.

28. Expenditure on land improvements used for forestry—(1) Section 128B (2) of the principal Act (as inserted by section 12 (1) of the Income Tax Amendment Act (No. 4) 1986) is hereby amended by omitting the words “(other than expenditure of any of the kinds specified in categories (a) to (d) of that Part of that Schedule)”.

(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 1987 and in every subsequent year.

29. Revised assessments where land or fish farms or certain assets are sold within 10 years of acquisition after deductions in respect of certain expenditure—(1) Section 129 (9) (aa) (i) of the principal Act (as inserted by section 13 (2) of the Income Tax Amendment Act (No. 4) 1986) is hereby amended by omitting the words “by that person, or by that person and any other person,”.

(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.

30. Loss incurred in specified activities—(1) Section 188A (7A) of the principal Act (as inserted by section 31 (4) of the Income Tax Amendment Act (No. 3) 1983) is hereby amended by adding the following proviso:

“Provided that this subsection shall not apply in respect of any loss incurred by any taxpayer, being a company included in a group of companies, in the income year that commenced on the 1st day of April 1986 or in any subsequent year in the conduct of any specified activity referred to in any of paragraphs (a) to (h) of the definition of the expression ‘specified activity’ in subsection (1) of this section.”

31. Companies included in a group of companies—(1) Section 191 (1) of the principal Act is hereby amended by adding the following paragraph:

“(f) The term ‘dual resident company’, in relation to any income year, means a company that—

“(i) In that income year or any part of that income year is resident in New Zealand; and

“(ii) In that income year or in that part or any other part of that income year is also, by the law of another territory,—

“(A) Resident in that other territory; or

“(B) Registered, incorporated, or domiciled in, or a national of, that other territory,—

if, by virtue of that residence, registration, incorporation, domicile, or nationality, the company is liable to tax in that other territory on its income or profits, or would be so liable if it derived income or profits.”

(2) Section 191 of the principal Act is hereby amended by inserting, after subsection (7D) (as inserted by section 41 (3) of the Income Tax Amendment Act 1980), the following subsection:

“(7E) If in any income year a company is a dual resident company,—

“(a) A loss or part of a loss incurred by the dual resident company in that income year shall not be deductible under subsection (5) of this section in any income year:

“(b) Any payment made by a company (hereinafter called the ‘paying company’) to the dual resident company to which subsection (7) of this section would otherwise apply in respect of a loss or part of a loss incurred by the dual resident company in that income year (whether or not that loss or that part of a loss has been carried forward by the dual resident company pursuant to section 188 of this Act)—

“(i) Shall not be deductible by the paying company; and

“(ii) Shall be deemed not to be assessable income derived by the dual resident company.”

(3) Section 191 of the principal Act is hereby consequentially amended by omitting from subsections (5) and (7) the expression “subsection (7A)”, and substituting in each case the expression “subsections (7A) and (7E)”.

(4) This section shall apply with respect to the tax on income derived in the income year that commenced on the 1st day of April 1987 and in every subsequent year, except that where the date of the annual balance of any company’s accounts is a date other than the 31st day of March, and—

- (a) The company furnishes a return under section 15 of the principal Act; and
- (b) The company's accounting year that corresponds to the income year that commenced on the 1st day of April 1987 commenced on or before the 17th day of December 1986,—

this section shall apply with respect to the tax on income derived by the company in the income year commencing on the 1st day of April 1988 and in every subsequent year.

32. Special partnerships—(1) Section 211B(12) of the principal Act (as inserted by section 35 (1) of the Income Tax Amendment Act (No. 4) 1986) is hereby amended by inserting, after the words “duration of the partnership”, the word “it”.

(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 1986 and in every subsequent year.

33. Determination of “specified exemption”—(1) Section 336BA (1) of the principal Act (as inserted by section 3 (1) of the Income Tax Amendment Act 1985 and amended by section 2 (2) of the Income Tax Amendment Act (No. 4) 1985) is hereby amended—

- (a) By omitting from paragraph (a) and from paragraph (c) the expression “7,202”, and substituting in each case the expression “7,800”;
- (b) By omitting from paragraph (b) and from paragraph (c) the expression “\$12,012”, and in each case substituting the expression “\$13,000”;
- (c) By omitting from paragraph (b) the expression “\$6,006”, and substituting the expression “\$6,500”.

(2) Section 336L(1A) of the principal Act (as inserted by section 4 (4) of the Income Tax Amendment Act 1985 and amended by section 2 (4) of the Income Tax Amendment Act (No. 4) 1985) is hereby consequentially amended by repealing paragraphs (a) to (f), and substituting the following paragraphs:

- “(a) One day, the amount of \$30:
- “(b) One week, the amount of \$150:
- “(c) Two weeks, the amount of \$300:
- “(d) Three weeks, the amount of \$450:
- “(e) Four weeks, the amount of \$600:
- “(f) One month, the amount of \$650.”

(3) Section 336L (2) of the principal Act (as inserted by section 17 (1) of the Income Tax Amendment Act 1984 and amended by section 2 (5) of the Income Tax Amendment Act (No. 4)

1985) is hereby consequentially amended by repealing paragraphs (a) to (f), and substituting the following paragraphs:

“(a) One day, the amount of \$25:

“(b) One week, the amount of \$125:

“(c) Two weeks, the amount of \$250:

“(d) Three weeks, the amount of \$375:

“(e) Four weeks, the amount of \$500:

“(f) One month, the amount of \$541.”

(4) Section 356 (1) (ab) (ii) of the principal Act (as inserted by section 17 (4) of the Income Tax Amendment Act 1984 and amended by section 2 (6) of the Income Tax Amendment Act (No. 4) 1985) is hereby consequentially amended by omitting the expression “\$6,006”, and substituting the expression “\$6,500”.

(5) This section shall come into force on the 1st day of April 1988 and 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 1987 and for every subsequent year.

34. Family support credit of tax—(1) Section 374D of the principal Act (as inserted by section 17 (1) of the Income Tax Amendment Act (No. 2) 1986) is hereby amended by omitting from subsections (2) and (3) the expression “\$14,000”, and substituting in each case the expression “\$15,000”.

(2) This section shall apply in respect of the income year that commenced on the 1st day of April 1987 and in every subsequent year.

35. Guaranteed minimum family income credit of tax—(1) Section 374E of the principal Act (as inserted by section 17 (1) of the Income Tax Amendment Act (No. 2) 1986) is hereby amended by omitting from subsections (3) and (4) the expression “\$10,816”, and substituting in each case the expression \$11,856”.

(2) This section shall apply in respect of the income year that commenced on the 1st day of April 1987 and in every subsequent year.

36. Credit of tax by instalments—(1) Section 374G (4) of the principal Act (as inserted by section 17 (1) of the Income Tax Amendment Act (No. 2) 1986) is hereby amended by adding the following proviso:

“Provided that this section shall, in respect of the income year commencing on the 1st day of April 1987, apply as if the

expression '\$15,000' in section 374D (2) and (3) of this Act were the expression '\$14,000'."

(2) This section shall apply in respect of the income year that commenced on the 1st day of April 1987.

37. Offences—(1) Section 374N (d) of the principal Act (as inserted by section 17 (1) of the Income Tax Amendment Act (No. 2) 1986) is hereby amended by inserting, before the word "attempts", the words "obtains or".

(2) Section 374N of the principal Act (as so inserted) is hereby amended by repealing paragraph (f), and substituting the following paragraph:

"(f) Sells or otherwise transfers, or attempts to sell or otherwise transfer, a certificate of entitlement to any other person; or"

(3) This section applies to offences committed on or after the day on which this Act receives the Governor-General's assent.

38. Penal tax—(1) Section 374O (1) of the principal Act (as inserted by section 17 (1) of the Income Tax Amendment Act (No. 2) 1986) is hereby amended by inserting, before the word "attempts" in both places where it occurs, the words "obtains or".

(2) This section shall apply with respect to tax on income derived in the income year that commenced on the 1st day of April 1987 and in every subsequent year.

39. Additional tax to be charged if default made in payment of tax—(1) Section 398 (5) of the principal Act (as inserted by section 40 (1) of the Income Tax Amendment Act (No. 2) 1985 and amended by section 21 of the Income Tax Amendment Act 1987) is hereby amended by omitting from the proviso the words "this section", and substituting the words "this subsection".

(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.

40. Twelfth Schedule—(1) The principal Act is hereby amended by repealing the Twelfth Schedule (as added by section 5 (3) of the Income Tax Amendment Act (No. 4) 1986), and substituting the new Twelfth Schedule set out in the Schedule to this Act.

(2) This section shall apply with respect to specified livestock on hand at the end of the income year that commenced on the 1st day of April 1987, and at the end of every subsequent income year.

SCHEDULE

Section 40 (1)

NEW TWELFTH SCHEDULE TO PRINCIPAL ACT

"TWELFTH SCHEDULE

Sections 85A, 86E

"TYPES AND CLASSES OF LIVESTOCK

Type of Livestock Column 1	Classes of Livestock Column 2	Herd Livestock Column 3
Sheep	Ewe hoggets Ram and wether hoggets Two-tooth ewes Mixed-age ewes (three-year and four-year old ewes) Five-year and six-year ewes Mixed-age wethers Breeding rams	Two-tooth ewes Mixed-age ewes Five-year and six-year ewes Mixed-age wethers Breeding rams
Cattle	<i>Beef breeds and beef crosses:</i>	
	Rising one-year heifers Rising two-year and older heifers (maiden/first calving) Mixed-age cows (second and subsequent calving) Rising one-year steers and bulls Rising two-year and older steers and bulls Breeding bulls	Rising two-year and older heifers (maiden/first calving) Mixed-age cows (second and subsequent calving) Breeding bulls
	<i>Friesian and related breeds:</i>	
	Rising one-year heifers Rising two-year and older heifers (maiden/first calving) Mixed-age cows (second and subsequent calving) Rising one-year steers and bulls Rising two-year and older steers and bulls Breeding bulls	Rising two-year and older heifers (maiden/first calving) Mixed-age cows (second and subsequent calving) Breeding bulls
	<i>Jersey and other dairy breeds:</i>	
	Rising one-year heifers Rising two-year and older heifers (maiden/first calving) Mixed-age cows (second and subsequent calving)	Rising two-year and older heifers (maiden/first calving) Mixed-age cows (second and subsequent calving)

SCHEDULE—*continued*“TWELFTH SCHEDULE—*continued*”“TYPES AND CLASSES OF LIVESTOCK—*continued*”

Type of Livestock <i>Column 1</i>	Classes of Livestock <i>Column 2</i>	Herd Livestock <i>Column 3</i>
	Rising one-year steers and bulls	
	Rising two-year and older steers and bulls	Breeding bulls
	Breeding bulls	
Deer		<i>Red deer:</i>
	Rising one-year hinds	
	Rising two-year and older hinds (maiden/first fawning)	Rising two-year and older hinds (maiden/first fawning)
	Mixed-age hinds (second and subsequent fawning hinds)	Mixed-age hinds (second and subsequent fawning hinds)
	Rising one-year stags	
	Rising two-year and older stags (non-breeding)	Rising two-year and older stags (non-breeding)
	Breeding stags	Breeding stags
		<i>Wapiti, Elk, and related crossbreeds:</i>
	Rising one-year hinds	
	Rising two-year and older hinds (maiden/first fawning)	Rising two-year and older hinds (maiden/first fawning)
	Mixed-age hinds (second and subsequent fawning hinds)	Mixed-age hinds (second and subsequent fawning hinds)
	Rising one-year stags	
	Rising two-year and older stags (non-breeding)	Rising two-year and older stags (non-breeding)
	Breeding stags	Breeding stags
		<i>Other breeds:</i>
	Rising one-year hinds	
	Rising two-year and older hinds (maiden/first fawning)	Rising two-year and older hinds (maiden/first fawning)
	Mixed-age hinds (second and subsequent fawning hinds)	Mixed-age hinds (second and subsequent fawning hinds)
	Rising one-year stags	
	Rising two-year and older stags (non-breeding)	Rising two-year and older stags (non-breeding)
	Breeding stags	Breeding stags

SCHEDULE—*continued*
 “TWELFTH SCHEDULE—*continued*
 “TYPES AND CLASSES OF LIVESTOCK—*continued*”

Type of Livestock <i>Column 1</i>	Classes of Livestock <i>Column 2</i>	Herd Livestock <i>Column 3</i>
Goats	<i>Angora and Angora Crosses—Purebred and G1 to G4</i>	
	Rising one-year does	
	Mixed-age does	Mixed-age does
	Rising one-year bucks (non-breeding)/wethers	
	Bucks (non-breeding)/wethers over one year	Bucks (non-breeding)/wethers over one year
	Breeding bucks	Breeding bucks
	<i>Other fibre and meat-producing goats:</i>	
	Rising one-year does	
	Mixed-age does	Mixed-age does
	Rising one-year bucks (non-breeding)/wethers	
	Bucks (non-breeding)/wethers over one year	Bucks (non-breeding)/wethers over one year
	Breeding bucks	Breeding bucks
	<i>Milking (dairy) goats:</i>	
	Rising one-year does	
	Does over one year	Does over one year
	Breeding bucks	Breeding bucks
	Other dairy goats	
Pigs	Breeding sows less than one year of age	
	Breeding sows over one year of age	Breeding sows over one year of age
	Breeding boars	Breeding boars”
	Weaners less than 10 weeks of age (excluding sucklings)	
	Growing pigs 10 to 17 weeks of age (porkers/baconers)	
	Growing pigs over 17 weeks of age (baconers)	

This Act is administered in the Inland Revenue Department.