ANALYSIS

1983, No. 139

An Act to amend the Income Tax Act 1976

[*16 December 1983*

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

1. Short Title—This Act may be cited as the Income Tax Amendment Act (No. 3) 1983, and shall be read together with and deemed part of the Income Tax Act 1976 (hereinafter referred to as the principal Act).

PART I

GENERAL PROVISIONS

2. Application—Except where this Part of this Act otherwise provides, this Part of this Act shall apply with respect to the tax on income derived in the income year that commenced on the 1st day of April 1983 and in every subsequent year.

3. Interpretation—Section 2 of the principal Act is hereby amended by inserting, after the definition of the expression "superannuation category 3 scheme" (as inserted by section 3 (1) of the Income Tax Amendment Act (No. 2) 1982), the following definition:

" 'Superannuation fund' means—

"(a) Any superannuation category 1 scheme; or

"(b) Any superannuation category 2 scheme:".

4. Meaning of term "bonus issue"—(1) Section 3 (3) of the principal Act is hereby amended—

(a) By inserting in paragraph (a) (i), after the words "section 4 (5) (a) of this Act", the words ", not being any profit to which section 4 (5A) of this Act applies":

(b) By repealing paragraph (b).

(2) This section shall come into force on the day on which this Act receives the Governor-General's assent.

5. Meaning of term "dividends"—(1) Section 4 (1) of the principal Act is hereby amended by repealing paragraph (ca) (as inserted by section 4 (1) of the Income Tax Amendment Act (No. 2) 1982), except the proviso to that paragraph, and substituting the following paragraph:

"(ca) The amount (referred to hereafter in this paragraph as the 'return of capital')—

"(i) Distributed in any manner, and under any name, from and in respect of any reduction of the share capital of the company; or

"(ii) Distributed in any manner and under any name upon the redemption of any preference shares, being preference shares that were issued by way of a bonus issue made by the company on or after the 1st day of April 1982, or which, when issued howsoever, gave the right to participate in any bonus issue made or to be made by the company on or after that date; or

"(iii) Of any return of paid-up capital, made on the winding up of the company, to the extent that that amount exceeds the amount of the paid-up capital of the company that was paid up otherwise than as a result of any bonus issue made by the company on or after the 1st day of April 1982,—

(not being the amount of a distribution that, under section 263 of this Act, is deemed to be a further bonus issue) where that return of capital is so distributed or made on or after the 1st day of April 1982 and where, within the period of 120 months immediately preceding the distributing or making of that return of capital, the company has made a bonus issue on or after the 1st day of April 1982:".

(2) Section 4 (1) of the principal Act (as so amended) is hereby further amended by inserting, after the words "was virtually a distribution of profits", the words "or a distribution of an amount capitalised by way of a bonus issue where that bonus issue was made by the company on or after the 1st day of April 1982 and within the period of 120 months immediately preceding the making of the advance".

(3) Section 4 (5) of the principal Act is hereby amended by inserting, after the words "any capital losses", the words

", being capital losses arising from the realisation of capital assets other than a realisation to which subsection (5A) of this section applies,".

(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 1982 and in every subsequent year:

Provided that in any case where a taxpayer furnishes a return of income under section 15 of the principal Act for a year ending with the date of the annual balance of his accounts, being a date not earlier than the 1st day of April 1982 and not later than the 30th day of September 1982, this section shall apply with respect to the tax on income derived in the income year that commenced on the 1st day of April 1981 and in every subsequent year.

6. Defining when 2 persons are associated persons—(1) Section 8 (1) (b) of the principal Act is hereby amended by inserting, after the words "paid-up capital", the words "or 25 percent or more in nominal value of the allotted shares".

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

7. Returns by partners, co-trustees, and joint venturers—Section 10 of the principal Act is hereby amended by repealing subsection (2).

8. Rebate from tax payable in respect of retrospective pay—Sections 44 and 57 (2) (a) of the principal Act shall be deemed to have been repealed on the 1st day of April 1984.

9. Rebate in respect of gifts of money and payment of school fees—Section 56A (2) of the principal Act is hereby amended by adding, after paragraph (t) (as added by section 8 (2) of the Income Tax Amendment Act 1981), the following paragraphs:

"(u) The New Zealand Society for the Intellectually Handicapped (Incorporated):

"(v) Amnesty International:

"(w) The Evangelical Alliance Relief Fund (TEAR Fund)."

10. Incomes wholly exempt from tax—Section 61 (53) of the principal Act (as inserted by section 21 (5) of the Income Tax Amendment Act 1978) is hereby amended by repealing the proviso, and substituting the following proviso:

"Provided that in no circumstance shall such income be of a nominal amount for the purposes of this paragraph if it exceeds (on average in respect of the number of weeks during which, in any income year, those activities are undertaken by that person) $25 per week:".

11. Profits or gains from land transactions—(1) Section 67 (2) of the principal Act is hereby amended by inserting in paragraph (b), after the words "paid-up capital", the words "or 25 percent or more in nominal value of the allotted shares".

(2) Section 67 (4) of the principal Act is hereby amended by inserting, after paragraph (b), the following paragraph:

"(ba) All profits or gains derived from the sale or other disposition of land where the taxpayer, or any other person where the taxpayer and that other person are associated persons, carried on, at the time the land was acquired, the business of developing or dividing land into lots, being development or division of the kind (not being work of a minor nature) referred to in paragraph (e) of this subsection, and—

"(i) That land, which was sold or disposed of by the taxpayer, was acquired by that taxpayer for the purpose of that business of developing or dividing land into lots; or

"(ii) That land was sold or disposed of by the taxpayer within 10 years after the date on which it was acquired by the taxpayer:".

(3) Section 67 (4) (e) of the principal Act is hereby amended by adding the following proviso:

"Provided that this paragraph shall not apply in any case where the Commissioner is satisfied that the development or division work involved in any undertaking or scheme (being development or division work in relation to which, apart from this proviso, this paragraph would apply if it were development or division work of other than a minor nature) is for the purposes of the creating or effecting of a development or division or any other improvement that is for use in and for the purposes of—

"(iii) The carrying on by the taxpayer of any business on or from the land, not being a business that consists of that undertaking or scheme; or

"(iv) The residing, on the land, of the taxpayer and any member of his family living with him; or

"(v) The deriving by the taxpayer, from or in relation to the land, of income of any of the kinds referred to in section 65 (2) (g) of this Act:".

(4) Section 67 (4) of the principal Act is hereby further amended by omitting from paragraph (f) the words "paragraphs (a), (b), (c), (d), and (e)", and substituting the words "paragraphs (a), (b), (ba), (c), (d), and (e)".

(5) Section 67 (5) of the principal Act is hereby amended—

(a) By omitting the words "paragraphs (a), (b), and (c)", and substituting the words "paragraphs (a), (b), (ba), and (c)":

(b) By omitting the words "paragraph (a) or paragraph (b) or paragraph (c)", and substituting the words "paragraph (a) or paragraph (b) or paragraph (ba) or paragraph (c)".

(6) Section 67 (6) of the principal Act is hereby amended by repealing paragraph (a), and substituting the following paragraph:

"(a) The land was acquired by the taxpayer, and used or intended to be used—

"(i) By the taxpayer, or by his spouse, or by both the taxpayer and his spouse, primarily and principally for the purposes of a farming or agricultural business carried on by, as the case may be, the taxpayer, or his spouse, or both of them; or

"(ii) By the taxpayer primarily and principally as a residence for that taxpayer and any member of his family living with him or for the purpose of erecting a dwellinghouse on that land to be occupied as a residence for that person and any member of his family living with him; and".

(7) Section 67 (9) of the principal Act is hereby amended by repealing paragraph (a), and substituting the following paragraph:

"(a) That land is a lot resulting from the division into 2 or more lots of a larger area of land which, immediately before that division, was occupied or used by the taxpayer, or by his spouse, or by both the taxpayer and his spouse, primarily and principally for the purposes of a farming or agricultural business carried on by, as the case may be, the taxpayer, or his spouse, or both of them; and".

(8) Section 67 of the principal Act is hereby further amended by adding the following subsection:

"(14) Every reference in this section to a sale or other disposition of any land by any taxpayer shall be deemed to include a reference to a sale or other disposition of any land by or on behalf of any other person where that other person is, in relation to a mortgage secured on that land, a mortgagee and that sale or other disposition by or on behalf of that other person is made in consequence of the default of the taxpayer under that mortgage."

(9) Subsections (1), (2), (4), and (5) of this section shall apply with respect to any profit or gain derived from any sale or other disposition of land made on or after the day on which this Act receives the Governor-General's assent.

(10) Subsections (3), (6), and (7) of this section shall apply with respect to any profit or gain derived from any sale or other disposition of land made in the income year that commenced on the 1st day of April 1977 or in any subsequent income year.

(11) Subsection (8) of this section shall apply with respect to any profit or gain derived from any sale or other disposition of land made on or after the 1st day of April 1983.

(12) It is hereby declared that section 88AA (1) (d) of the Land and Income Tax Act 1954 (as inserted by section 9 (1) of the Land and Income Tax Amendment Act 1973) is deemed to have been amended, as from its commencement, by adding the following proviso:

"Provided that this paragraph shall not apply in any case where the Commissioner is satisfied that the development or division work involved in any undertaking or scheme (being development or division work in relation to which, apart from this proviso, this paragraph would apply if it were development or division work of other than a minor nature) is for the purposes of the creating or effecting of a development or division or any other improvement that is for use in and for the purposes of—

"(iii) The carrying on by the taxpayer of any business on or from the land, not being a business that consists of that undertaking or scheme; or

"(iv) The residing, on the land, of the taxpayer and any member of his family living with him; or

"(v) The deriving by the taxpayer, from or in relation to the land, of income of any of the kinds referred to in section 88 (1) (d) of this Act:".

(13) It is hereby declared that section 88AA (2A) of the Land and Income Tax Act 1954 (as inserted by section 3 (3) of the Land and Income Tax Amendment Act 1975) is deemed to have been amended, as from its commencement, by repealing paragraph (a), and substituting the following paragraph:

"(a) The land was acquired by the taxpayer, and used or intended to be used—

"(i) By the taxpayer, or by his spouse, or by both the taxpayer and his spouse, primarily and principally for the purposes of a farming or agricultural business carried on by, as the case may be, the taxpayer, or his spouse, or both of them; or

"(ii) By the taxpayer primarily and principally as a residence for that taxpayer and any member of his family living with him or for the purpose of erecting a dwellinghouse on that land to be occupied as a residence for that person and any member of his family living with him; and"

(14) It is hereby declared that section 88AA (4) of the Land and Income Tax Act 1954 (as inserted by section 9 (1) of the Land and Income Tax Amendment Act 1973) is deemed to have been amended, as from its commencement, by repealing paragraph (a), and substituting the following paragraph:

"(a) That land is a lot resulting from the division into 2 or more lots of a larger area of land which, immediately before that division, was occupied or used by the taxpayer, or by his spouse, or by both the taxpayer and his spouse, primarily and principally for the purposes of a farming or agricultural business carried on by, as the case may be, the taxpayer, or his spouse, or both of them; and".

12. Retiring allowances payable to employees—(1) Section 68 (1) of the principal Act (as amended by section 42 of the Income Tax Amendment Act (No. 2) 1977) is hereby further amended by repealing the definition of the expression "appropriate retiring age".

(2) Section 68 (2) of the principal Act is hereby amended by omitting the word "full-time", and also the words "and the

Commissioner is satisfied that the taxpayer did not retire from that employment or service before attaining the appropriate retiring age,".

(3) Section 68 (4) of the principal Act is hereby amended—

(a) By omitting the word "full-time":

(b) By repealing paragraph (b).

(4) Section 68 of the principal Act (as so amended) is hereby further amended by inserting, after subsection (4), the following subsection:

"(4A) Where the Commissioner is satisfied that—

"(a) Any deceased taxpayer was, at the time of his death, in any employment or service pursuant to a contract or agreement of employment or service; and

"(b) It was provided in, and for the purposes of, the said contract or agreement that, in relation to that employment or service, the death of the taxpayer constituted retirement; and

"(c) A payment, in a lump sum, made to a trustee of the estate of the deceased taxpayer is a payment made as a result of that provision in the said contract,—

that payment shall, for the purposes of this section, be deemed to be a retiring allowance paid on the occasion of the retirement of the taxpayer from that employment or service."

(5) Section 68 (5) of the principal Act is hereby amended by repealing paragraph (a), and substituting the following paragraph:

"(a) Is made by a company to, or in relation to the services of, any of its directors, where that payment is income derived by 2 or more persons jointly, whether as partners, co-trustees, or otherwise:".

(6) Section 68 (5) of the principal Act is hereby further amended by omitting from the first proviso to paragraph (c) the word "full-time".

(7) Section 68 (5) of the principal Act is hereby further amended by adding the following paragraphs:

"(d) Is calculated with respect to any right or any entitlement (whenever and however exercised or arising) of the employee, being a right or an entitlement that is not dependent on the occurring of the retirement of the employee from any employment or service, whether or not, where that right or that entitlement relates to any leave of absence which the employee might take or might have taken from the

employment of the employer, the said leave of absence has accumulated or accrued in respect of any past service of the employee:

"(e) Is made to the taxpayer by reason or as a consequence of a merger, takeover, amalgamation, or reconstruction of, by, or between 2 or more persons where, at any time during the period of 183 days immediately succeeding the date of the completion of the merger or takeover or amalgamation or reconstruction, the taxpayer is in, or enters into, any employment or service, being employment or service with any of the said persons, which is, in the opinion of the Commissioner, of substantially the same kind as that in which the taxpayer was engaged immediately before the completion of the merger or takeover or amalgamation or reconstruction."

(8) Section 151 (1) (b) of the principal Act is hereby consequentially amended by repealing subparagraph (i), and substituting the following subparagraph:

(i) The employee retired from that employment; or".

(9) Section 151 (2) of the principal Act is hereby consequentially amended by omitting from the proviso the word "full-time".

(10) Section 152 of the principal Act is hereby consequentially amended—

(a) By omitting from subsection (1) the word "full-time" and the words ", where the Commissioner is satisfied that the employee did not retire from the employment before attaining the appropriate retiring age (as defined in section 68 (1) of this Act)":

(b) By omitting from subsection (2) (b) the words "to have attained the appropriate retiring age on the date on which he ceased to be so employed and":

(c) By omitting from subsections (2) and (3) the word "full-time".

(11) The Income Tax Amendment Act (No. 2) 1977 is hereby consequentially amended by repealing so much of the Fourth Schedule as relates to section 68 (1) of the principal Act.

(12) This section shall apply with respect to any payment made on or after the 1st day of April 1984.

13. Power to exempt employees' allowances—(1) Section 73 of the principal Act (as substituted by section 11 (1) of the Income Tax Amendment Act (No. 2) 1982) is hereby amended by repealing paragraph (e) of subsection (6), and substituting the following paragraph:

"(e) The date on which the said award, collective agreement, or other instrument, having been (after the date on which that notice is so given) first negotiated or, as the case may be, first renegotiated and having been (as so negotiated or renegotiated)—

"(i) Made or approved or registered by the Arbitration Court, the Waterfront Industry Tribunal, the Agricultural Tribunal, the Aircrew Industrial Tribunal, a tribunal within the meaning of the State Services Conditions of Employment Act 1977, or any other tribunal or employing authority constituted under any enactment; or

"(ii) Given or required to be given to the Registrar of the Arbitration Court pursuant to regulation 8 of the Wage Adjustment Regulations 1974; or

"(iii) Made pursuant to a decision of a compulsory conference appointed pursuant to section 120 of the Industrial Relations Act 1973 or a decision of a committee of inquiry appointed pursuant to section 121 of that Act; or

"(iv) Made as an Order in Council or regulation,—

comes into force with respect to the said clause or other provision:".

(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 1982 and in every subsequent year.

14. Amounts remitted to be taken into account in computing income—(1) The principal Act is hereby amended by repealing section 78, and substituting the following section:

"78. (1) Where the amount of any expenditure or loss incurred by a taxpayer has been taken into account in calculating his assessable income for any income year, and subsequently the liability of the taxpayer in respect of that amount is remitted or cancelled in whole or in part, the assessable income derived by the taxpayer during that year shall be deemed to be increased by the amount so remitted or cancelled, and the taxpayer shall be assessable and liable for income tax accordingly.

"(2) For the purposes of this section—

"(a) A liability shall be deemed to have been remitted to the extent to which the taxpayer has been discharged from that liability without fully adequate consideration in money or money's worth:

"(b) A liability shall be deemed to have been cancelled to the extent to which the taxpayer has been released from that liability by the operation of the Bankruptcy Act 1908 or the Insolvency Act 1967 or the Companies Act 1955, or by any deed of composition with his creditors:

"(c) A liability shall be deemed to have been cancelled to the extent to which it has become irrecoverable or unenforceable by action through the lapse of time.

"(3) For the purposes of giving effect to this section, the Commissioner may at any time alter any assessment, notwithstanding anything in section 25 of this Act."

15. Spreading of excess income derived on sale of livestock where unduly low standard values or nil value adopted—(1) Section 93 (1) of the principal Act is hereby amended by repealing paragraph (a), and substituting the following paragraph:

"(a) The average assessable income of any taxpayer shall be deemed to be the average annual amount of the assessable income derived by the taxpayer from, as the case may be,—

"(i) The farming business concerned; or

"(ii) The leasing or bailing of all of the livestock leased or bailed by him to any other person or persons—

during the period of 3 income years immediately preceding the income year in which the sale or other disposition took place or during the period in which the taxpayer has derived assessable income from, as the case may be,—

"(iii) That farming business; or

"(iv) That leasing or bailing,—

whichever of the said periods is the shorter:".

(2) Section 93 (2) of the principal Act is hereby amended by inserting, after the words "assessable income", where they first appear, the words ", or a substantial part of all of the livestock from the leasing or bailing of which (to any other person or persons) a taxpayer derives assessable income".

(3) Section 93 (4) of the principal Act is hereby amended by inserting, after the word "livestock", where it first appears, the words ", not being livestock leased or bailed to any person,".

(4) Section 93 (6) of the principal Act is hereby amended by inserting, after the word "business", the words ", or a substantial part of the livestock leased or bailed,".

16. Payment of excessive salary or wages, or allocation of excessive share of profits or losses, to relative employed by or in partnership with taxpayer—(1) Section 97 of the principal Act is hereby amended by repealing subsection (1), and substituting the following subsection:

"(1) Where—

"(a) Any taxpayer carries on any business or undertaking and employs or engages any relative, or, being a company other than a proprietary company, employs or engages any relative of a director or shareholder of the company, to perform services in connection with that business or undertaking; or

"(b) Any taxpayer carries on business in partnership with any person, whether or not any other person is a member of the partnership, and—

"(i) Any relative of the taxpayer is employed or engaged by the partnership to perform services in connection with the business; or

"(ii) Where one of the partners is a company, any relative of a director or shareholder of the company is employed or engaged by the partnership to perform services in connection with the business; or

"(c) Any taxpayer carries on business in partnership with any relative or with any company a director or shareholder of which is a relative of the taxpayer or, being a company, carries on business in partnership with any relative of a director or shareholder of the company, whether or not any other person is a member of the partnership,—

and the Commissioner is of the opinion that the remuneration, salary or wages, share of profits, or other income payable to or for the benefit of that relative or that company, or the share of losses to be borne by that relative or that company, under the contract of service, employment or engagement or the terms of the partnership exceeds such an amount as is reasonable having regard to the nature and extent of the

services rendered, the value of the contributions made by the respective partners by way of services or capital or otherwise, and any other relevant matters, the Commissioner may for the purposes of this Act allocate the total profits, income, or losses of the business or undertaking, before the deduction of any amount payable to that relative or company, between the parties to the contract or the partners or any of them in such shares and proportions as he considers reasonable, and the amounts so allocated shall be deemed to be income derived or, as the case may be, losses incurred by the persons to whom those amounts are so allocated and by no other person."

(2) Section 97 (4) of the principal Act is hereby amended by repealing paragraph (d), and substituting the following paragraph:

"(d) Each party to the contract has—

"(i) Real and effective control of the remuneration, salary or wages, share of profits, or other income to which he is entitled under the contract:

"(ii) Real and effective liability for the share of losses to be borne by him under the contract:".

(3) Section 97 (4) (e) of the principal Act is hereby amended by inserting, after the word "salary", the words "or wages".

17. Limitation of deduction for expenditure to amount at risk—(1) Section 106A (1) of the principal Act (as inserted by section 15 of the Income Tax Amendment Act (No. 2) 1982) is hereby amended by repealing paragraph (c) of the definition of the expression "limited recourse loan", and substituting the following:

"(c) Any other arrangement which, in the opinion of the Commissioner, is of a substantially similar nature,—

and includes any amount borrowed by the taxpayer from any other person (the taxpayer and the other person being associated persons), whether or not the taxpayer is protected as aforesaid in relation to any investment of the amount borrowed, where the amount so borrowed by the taxpayer is, directly or indirectly, an amount that the other person has borrowed and in relation to any investment of which the other person is so protected:".

(2) This section shall apply with respect to any amount borrowed on or after the 1st day of April 1983.

18. Additional depreciation allowance for newly constructed private rental housing—(1) The principal Act is hereby amended by inserting, after section 114B (as inserted by section 18 (1) of the Income Tax Amendment Act (No. 2) 1982), the following section:

"114C. (1) For the purposes of this section—

" 'Depreciation period', in relation to a taxpayer and to any rental dwellinghouse, means whichever of the following periods is the shorter:

"(a) The period of 60 months commencing with the letting date:

"(b) Where the rental dwellinghouse is, at any time after the letting date, occupied otherwise than pursuant to a lease, the period commencing with the letting date and ending on the day immediately preceding the day on which the rental dwellinghouse is first so occupied:

" 'Letting date', in relation to a taxpayer and to any rental dwellinghouse, means—

"(a) Where the rental dwellinghouse was erected or acquired by the taxpayer (not being an acquisition to which paragraph (b) of this definition applies), the date (being a date not earlier than the 29th day of July 1983 and not later than the 31st day of March 1987) on which the rental dwellinghouse, having at all times prior to that date been unoccupied, is first used by the taxpayer for the purpose of the deriving of income, being rents, from a lease thereof:

"(b) Where the rental dwellinghouse was acquired by the taxpayer from any person (referred to hereafter in this definition as the 'transferor') by way of transfer in accordance with a matrimonial agreement, after it has been occupied, the date (being a date not earlier than the 29th day of July 1983 and not later than the 31st day of March 1987) on which the rental dwellinghouse, having at all times prior to that date been unoccupied, was first used by the transferor for the purpose of the deriving of income, being rents, from a lease thereof:

" 'New', in relation to a building and to any part of a building, means not having previously been occupied:

" 'Rent', in relation to a rental dwellinghouse and to any lease thereof, includes any premium or other consideration for the lease:

" 'Rental dwellinghouse' means a new building that, or such part of a new building or such new part of a building as, is for use for letting as a residence, being a house, flat, townhouse, home unit, unit of a multi-unit building, or other similar dwelling; and includes any appurtenances to the building or, as the case may be, the part of the building that are usually enjoyed with the building or the part of the building.

"(2) Where the Commissioner is satisfied that any taxpayer has incurred expenditure of a capital nature in acquiring or erecting any asset, being a rental dwellinghouse the first occupant of which is, in relation to the taxpayer, a lessee, and the taxpayer derives in any income year any income, being rent, from any lease of that asset, the Commissioner may, subject to sections 111 and 111A of this Act, in calculating the assessable income derived by the taxpayer in that income year, allow, in respect of that asset and in relation to such part of the depreciation period as is included in that income year, a deduction by way of depreciation, being a deduction of an amount equal to and additional to the amount that, in respect of that asset, the Commissioner allows, under section 108 of this Act, as a deduction in respect of the said asset and in relation to the said period:

"Provided that where any rental dwellinghouse is acquired by the taxpayer from any person (referred to hereafter in this proviso as the 'transferor') by way of transfer in accordance with a matrimonial agreement and the first occupant of that rental dwellinghouse was, in relation to the transferor, a lessee, that first occupant shall, in relation to the taxpayer, be deemed to be a lessee.

"(3) This section shall not apply in any case where expenditure of a capital nature is incurred by any person in acquiring or erecting—

"(a) Any building that, or such part of any building as, is for use for the purpose of the conducting of any boarding house, guest house, convalescent home, nursing home, rest home, or other similar establishment:

"(b) Any building of the kind referred to in section 112 (2) (e) of this Act:

"(c) Any building that, or such part of any building as, is for use for the purpose of providing accommodation for the travelling public:

"(d) Where that person is a company, any building that, or such part of any building as, in the opinion of the

Commissioner, is for use for the accommodation of any person who is a shareholder of the company or the accommodation of the spouse or any child of any such shareholder:

"(e) Any building that is an appurtenance to any building or, as the case may be, to any part of any building of any of the kinds referred to in paragraphs (a) to (d) of this subsection."

(2) Section 117 (1) of the principal Act is hereby consequentially amended by inserting in paragraph (i) of the second proviso, after the words "under section 108", the words "or section 114C".

19. Deduction of certain expenditure incurred by persons engaged in aquaculture—(1) Section 128 (2) of the principal Act (as amended by section 22 of the Income Tax Amendment Act (No. 2) 1982) is hereby further amended by inserting, after paragraph (ba), the following paragraph:

"(bb) Any taxpayer engaged in the business of sea-cage salmon farming in New Zealand shall, in calculating the assessable income derived by him from that business, be entitled to deduct any expenditure incurred in that business in any income year commencing on or after the 1st day of April 1983 and ending on or before the terminating date, and not deductible otherwise than under this section, in—

"(i) The acquisition, preparation, and mooring of pontoons, rafts, or other floating structures for securing or protecting cages or other containment vessels; or

"(ii) The acquisition, preparation, and placing of equipment or structures, including tanks, cages, nets, or other vessels, for the containment of live salmon; or

"(iii) The acquisition and placing of ropes and buoys used in the breeding or maturing of salmon; and".

(2) Section 128 (2) of the principal Act (as so amended) is hereby further amended by repealing subparagraphs (i) to (viii) of paragraph (c) of that section, and substituting the following subparagraphs:

"(i) Ground testing; or

"(ii) The drilling of water bores; or

"(iii) The draining of land or the excavating of sites for ponds, tanks, or races; or

"(iv) The construction of races, sluices, ponds, settling ponds, or tanks of impervious materials to conduct or contain waters; or

"(v) The supply and installation of pipes for water reticulation; or

"(vi) The construction of walls, embankments, walkways, service paths, or access paths; or

"(vii) The supply and installation of baffles or screens for the containing or excluding of fish; or

"(viii) The construction of fencing on the fish farm; or

"(ix) The construction of effluent ponds and channels:".

(3) Section 188A (1) of the principal Act (as inserted by section 32 (1) of the Income Tax Amendment Act (No. 2) 1982) is hereby consequentially amended by inserting in the definition of the term "specified activity", after paragraph (g), the following paragraph:

"(ga) The business of sea-cage salmon farming:".

20. Revised assessments where land or fish farms or certain assets sold within 10 years of acquisition after deductions in respect of certain expenditure—(1) Section 129 of the principal Act (as substituted by section 23 (1) of the Income Tax Amendment Act (No. 2) 1982) is hereby amended by repealing paragraphs (c) and (d) of subsection (2), and substituting the following paragraphs:

"(c) In any case where the land is sold or otherwise disposed of without the improvements thereon or the lease improvements relating thereto, the value of the consideration received or receivable by the taxpayer for the sale or other disposal of the land exceeds the amount or, as the case may be, the aggregate of the amounts of the expenditure of any of the following kinds:

"(i) The original purchase price of the land:

"(ii) Any expenditure incurred in the acquiring of the land:

"(iii) Any expenditure by way of interest, being interest of the kind referred to in the definition in subsection (1) of this section of the expression 'deduction for interest', to the extent that that interest was, in the opinion of the Commissioner,

payable on money borrowed and used for the purpose of the purchase or other acquisition of that land:

"(iv) Any expenditure by way of interest, being interest of the kind referred to in the said definition of the expression 'deduction for interest', to the extent that that interest was, in the opinion of the Commissioner, payable on money borrowed and used for the purpose of the repayment of the borrowed money referred to in subparagraph (iii) of this paragraph or the repayment of the money borrowed and used for the purpose of the aforesaid repayment:

"(v) Any expenditure by way of rates, land tax, insurance premiums, or other like expenses incurred in respect of the land:

"(vi) Any expenditure incurred in the selling or other disposing of the land,—

being expenditure which has, in the acquiring of the land or, as the case may be, since the acquisition of the land by the taxpayer, been incurred by—

"(vii) The taxpayer; or

"(viii) The other person; or

"(ix) The taxpayer and the other person,—

and being expenditure in respect of which no deduction has been allowed under this Act; and

"(d) In any case where the land is sold or otherwise disposed of together with the improvements thereon, or the lease improvements relating thereto, the value of the consideration received or receivable by the taxpayer for the sale or other disposal of the land and the improvements or lease improvements exceeds the aggregate of the amounts of the expenditure of any of the following kinds:

"(i) The original purchase price of the land:

"(ii) Any expenditure incurred in the acquiring of the land:

"(iii) Any expenditure incurred in acquiring, installing, or effecting those improvements or those lease improvements:

"(iv) Any expenditure by way of interest, being interest that, in the opinion of the Commissioner, is of the kind referred to in the definition in subsection (1) of this section of the expression 'deduction for interest':

"(v) Any expenditure by way of rates, land tax, insurance premiums, or other like expenses incurred in respect of the land, or those improvements, or those lease improvements:

"(vi) Any expenditure incurred in the repair or alteration of those improvements or those lease improvements:

"(vii) Any expenditure incurred in the selling or other disposing of the land together with those improvements or those lease improvements,—

being expenditure which has, in the acquiring of the land or, as the case may be, since the acquisition of the land by the taxpayer, been incurred by—

"(viii) The taxpayer; or

"(ix) The other person; or

"(x) The taxpayer and the other person,—

and being expenditure in respect of which no deduction, other than a deduction by way of depreciation or investment allowance under any provision of this Act, has been allowed under this Act,—".

(2) Section 129 of the principal Act (as so substituted and amended) is hereby further amended by omitting from subsections (2), (3), and (6) the word "year", and substituting in each case the words "income year".

(3) Section 129 of the principal Act (as so substituted and amended) is hereby further amended by repealing subsection (10), and substituting the following subsections:

"(10) In any case where land is vacated by any person, and immediately before being so vacated that land was—

"(a) Used solely as the site of the person's residence (being a house, flat, townhouse, home unit, or similar dwelling); and

"(b) Occupied solely as the principal place of abode of the person,—

and after the said vacating of that land the person derives rent from a lease of that land—

"(c) In the period ending on the day on which the person acquires, otherwise than by way of lease, other land which he uses and occupies in the manner specified in paragraphs (a) and (b) of this subsection; or

"(d) Where the Commissioner is satisfied that the person has (whether before, or immediately following, the acquisition of the said other land) taken all such steps as are necessary to secure with expedition the

sale or other disposal of the land first mentioned in this subsection, in the period ending on the date of that sale or other disposition,—

any deduction for interest that has been allowed in calculating the assessable income derived by the person in any income year from that lease in that period shall, for the purposes of this section, be deemed not to have been so allowed:

"Provided that this subsection shall not apply in any case where, in the opinion of the Commissioner, having regard to the date of the acquisition of the land first mentioned in this subsection, to the date of the said vacating of that land, to the period during which (immediately before the said vacating of that land) the person occupied that land as his principal place of abode, to such other circumstances as the Commissioner considers relevant, and to the tenor of this subsection, the said occupying of that land was of a temporary nature and was entered into to obtain an unfair advantage for tax purposes.

"(11) In any case where—

"(a) Land is sold or otherwise disposed of by any taxpayer; and

"(b) In respect of the use of a private dwelling situated on that land, a deduction for interest in relation to that land has, in calculating the assessable income derived by the taxpayer, been allowed in accordance with section 105 of this Act and clause 7 of the Fourth Schedule to this Act,—

the deduction for interest so allowed shall, for the purposes of this section, be deemed not to have been allowed.

"(12) In any case where—

"(a) Any land (referred to hereafter in this subsection as the 'replacement land') is purchased or otherwise acquired by any person in replacement of land (referred to hereafter in this subsection as the 'original land'), where the original land has been—

"(i) Compulsorily acquired from that person under any Act by the Crown or by any public authority or by any local authority; or

"(ii) Sold in circumstances in which the Commissioner is satisfied that, had the sale not been made, the land would have been compulsorily acquired by the purchaser from that person (being a compulsory acquisition of the kind referred to in subparagraph (i) of this paragraph); and

"(b) The replacement land is purchased or otherwise acquired within the period of 12 months commencing with the date on which possession is given by that person of the original land; and

"(c) The Commissioner is satisfied that the replacement land will be used by the person primarily and principally in—

"(i) The carrying on of a business of a kind similar to the kind of business carried on by the person on the original land immediately before the acquisition referred to in paragraph (a) (i) of this subsection or, as the case may be, the sale referred to in paragraph (a) (ii) of this subsection; or

"(ii) The deriving of income, not being income from the carrying on of a business, of the same class as the class of income that was derived by the person, from or in relation to the original land, immediately before the acquisition referred to in paragraph (a) (i) of this subsection, or, as the case may be, the sale referred to in paragraph (a) (ii) of this subsection,—

the date of purchase or other acquisition of the replacement land shall, for the purposes of this section, be deemed, in relation to the person, to be the date on which the original land was purchased or otherwise acquired by the person.

"(13) For the purposes of subsection (12) of this section, the reference in paragraph (c) of that subsection to the carrying on of a business by a person and to the deriving of income by a person shall be deemed to include a reference to the carrying on of a business or, as the case may be, the deriving of income by that person in association with any other person or persons, whether as a member of a partnership or a special partnership or as a joint venturer or as a co-owner.

"(14) Every reference in this section to a sale or other disposal of any land by any taxpayer shall be deemed to include a reference to a sale or other disposal of any land by or on behalf of any other person where that other person is, in relation to a mortgage secured on that land, a mortgagee and that sale or other disposal by or on behalf of that other person is made in consequence of the default of the taxpayer under that mortgage.

"(15) Every reference in this section to an income year shall, where the taxpayer furnishes a return of income under section 15 of this Act for an accounting year ending with an annual balance date other than the 31st day of March, be deemed to

be a reference to the accounting year corresponding with that income year, and, in every such case, this section shall, with any necessary modifications, apply accordingly.

"(16) Where the Commissioner is satisfied that arrangements have been made between a taxpayer and another person with a view to the affairs of the taxpayer and of that other person being so arranged or conducted that this section would, but for this subsection, have effect more favourably in relation to that taxpayer than would otherwise have been the case, the amount of the excess assessable to the taxpayer shall be not less than the amount of the excess that would, in the opinion of the Commissioner, have been assessable income derived by the taxpayer if those arrangements had not been made."

(4) This section shall apply with respect to any sale or other disposition of any land or asset, being land and being an asset within the meaning of section 129 (1) of the principal Act, made on or after the 1st day of April 1983.

21. Farmers' expenditure on tree planting—(1) Section 134 (1) of the principal Act (as amended by section 16 of the Income Tax Amendment Act 1981) is hereby further amended by inserting, after the words "Forestry Encouragement Grants Regulations 1981", the words ", or the Forestry Encouragement Grants Regulations 1983".

(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 1982 and in every subsequent year.

22. Expenditure in respect of forestry encouragement agreements under Forestry Encouragement Act 1962—(1) Section 135 (1) of the principal Act (as amended by section 23 of the Income Tax Amendment Act (No. 2) 1977) is hereby further amended by adding to the proviso, after the words "Forestry Encouragement Grants Regulations 1970", the words "or the Forestry Encouragement Grants Regulations 1981 or the Forestry Encouragement Grants Regulations 1983".

(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 1981 and in every subsequent year.

23. Gifts of money by public companies—(1) Section 147 of the principal Act is hereby amended by omitting from paragraph (a) of the proviso to subsection (2) the expression "$1,000", and substituting the expression "$4,000".

(2) Notwithstanding anything in the principal Act, in any case where a public company, being a taxpayer that furnishes a return of its income under section 15 of that Act for an accounting year ending with an annual balance date other than the 31st day of March, makes in its accounting year that includes the 1st day of April 1983 any gifts to which section 147 of that Act applies, the said section 147 shall apply in respect of the income year with which that accounting year corresponds as if the proviso to subsection (2) had been amended by repealing paragraph (a), and substituting the following paragraph:

"(a) In respect of all gifts, by any public company to any one donee in the accounting year that corresponds with the income year,—

"(i) Made in the period that ended on the 31st day of March 1983 shall not exceed, in the aggregate, $1,000:

"(ii) Made in the period that commenced on the 1st day of April 1983 shall not exceed, in the aggregate, $4,000:

"(iii) Made in the accounting year shall not exceed, in the aggregate, $4,000; and".

(3) Subsection (2) of this section shall apply with respect to the tax on income derived in the income year that commenced on the 1st day of April 1982 or, as the case may require, in the income year that commenced on the 1st day of April 1983.

24. Contributions to employees' superannuation schemes—Section 150 (3) of the principal Act (as substituted by section 26 (4) of the Income Tax Amendment Act (No. 2) 1982) is hereby amended by repealing paragraph (b), and substituting the following paragraph:

"(b) An amount equal to 10 percent of the aggregate of the amounts of the earnings paid by him in that income year to such of his employees as are, in that income year, members of the said subsidised employee superannuation scheme or schemes."

25. Repeal of spent export incentives—(1) The principal Act is hereby amended by repealing sections 156, 157, and 157A.

(2) The principal Act is hereby consequentially amended—

(a) By omitting from section 19 (4) the words "or section 157A":

(b) By repealing section 36 (f):

(c) By repealing section 156A (14):

(d) By repealing paragraph (b) of the definition of the term "net foreign currency earnings" in section 158A (1):

(e) By omitting from section 199 (4) (b) the words "112, 119 to 123, and 156", and substituting the words "112, and 119 to 123":

(f) By repealing the Seventh Schedule.

(3) The following enactments are hereby repealed:

(a) Sections 24 and 25 of the Income Tax Amendment Act (No. 2) 1977:

(b) Part II of the Income Tax Amendment Act 1978:

(c) Sections 20, 21, 22, and 27 (1) of the Income Tax Amendment Act 1979:

(d) Sections 30 and 36 of the Income Tax Amendment Act 1980.

(4) The following Orders in Council are hereby revoked:

(a) The Income Tax (Export Incentive) Order (No. 2) 1979:

(b) The Income Tax (Export Incentive) Order 1980.

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

26. Export earnings from qualifying overseas projects—(1) Section 158A (1) of the principal Act (as amended by section 23 (1) of the Income Tax Amendment Act 1979) is hereby further amended by inserting in the definition of the expression "net foreign currency earnings", after paragraph (a), the following paragraph:

"(aa) All amounts received by the taxpayer in respect of any goods or materials exported from New Zealand directly or indirectly in relation to that qualifying project and in respect of which the taxpayer is or has been allowed a credit of tax pursuant to section 156A of this Act; and".

(2) This section shall apply with respect to the tax on income derived in the income year that commenced on the 1st day of April 1980 and in every subsequent year.

27. Notional interest on loans made to employees under employee share purchase scheme—(1) Section 166 (2) (b) of the principal Act is hereby amended by inserting, after the words "paid-up capital", the words ", or 25 percent or more in nominal value of the allotted shares,".

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

28. Payments to partners for services performed for the partnership—(1) The principal Act is hereby amended by inserting, before section 168 and the subheading *"Grants and Suspensory Loans"*, the following section:

"167B. (1) For the purposes of this section—

" 'Contract of service', in relation to a partnership and to any partner who is a working partner thereof, means a binding agreement in writing, entered into by all the partners, which specifies the terms and conditions under which the partner is to be a working partner of the partnership, including any amount payable to the working partner for services performed by him in the carrying on of the business of the partnership pursuant to that agreement:

" 'Land' includes—

"(a) Any estate or interest in land, whether legal or equitable, corporeal or incorporeal, freehold or chattel; and

"(b) Any option to acquire land or any such estate or interest in land:

" 'Working partner', in relation to a partnership and to any period in an income year, means any partner of the partnership who, in that period, personally and actively performs, as his principal occupation, any of the duties required to be performed in the carrying on of the business of the partnership.

"(2) Subject to section 97 of this Act, where any payment is made by any partnership to any working partner of the partnership for services performed by him as a working partner in any period in any income year (being a period commencing not earlier than the date on which the contract of service in relation to that partner becomes binding, and ending not later than the date on which that contract of service terminates), the amount of that payment shall, to the extent that it does not exceed such amount as, in accordance with the said contract of service, is the amount payable to that partner in respect of the said period, be deemed, for the purposes of this Act, to be an amount of expenditure of the kind referred to in section 104 (b) of this Act.

"(3) Nothing in this section shall apply in relation to any partnership which is engaged exclusively or principally in the

investment of money or the holding of or dealing in shares, securities, investments, or estates or interests in land."

(2) Section 2 of the principal Act is hereby amended by inserting, after paragraph (b) of the definition of the expression "salary or wages", the following paragraph:

"(ba) Any payment to the extent to which, pursuant to section 167B (2) of this Act, it is deemed to be an amount of expenditure of the kind referred to in section 104 (b) of this Act; and".

(3) This section shall apply with respect to any payment made after the date on which this Act receives the Governor-General's assent.

29. Forestry encouragement grants—(1) Section 168 (1) of the principal Act is hereby amended by inserting, before the definition of the expression "expenditure portion", the following definition:

" 'Depreciation portion', in relation to any payment to any taxpayer made under the regulations in any income year, means that part of the total payment which, by way of the calculation of an amount of depreciation, relates to and is based upon expenditure of a capital nature incurred in the acquisition or construction, on or after the 1st day of April 1983, of any asset, being plant or machinery:".

(2) Section 168 (2) (a) of the principal Act (as substituted by section 17 (1) of the Income Tax Amendment Act 1981) is hereby amended by inserting, after the words "Forestry Encouragement Grants Regulations 1981", the words "or the Forestry Encouragement Grants Regulations 1983".

(3) Section 168 of the principal Act is hereby further amended by repealing subsection (4), and substituting the following subsection:

"(4) Where, in any income year, a payment to any taxpayer is made under the regulations,—

"(a) No amount of the expenditure portion (if any) or of the depreciation portion (if any) of the payment shall be included in the assessable income of the taxpayer for that income year or any other income year:

"(b) No deduction by way of depreciation in respect of any asset shall, where the depreciation portion (if any), or any part of the depreciation portion (if any), of the payment relates to and is based upon expenditure of a capital nature incurred in the acquisition or construction of that asset, be allowed

in calculating the assessable income derived by the taxpayer in any income year in which that asset is used in preparing or developing land for forestry operations or in planting, tending, or maintaining a tree crop."

(4) Section 168 of the principal Act is hereby further amended by adding, after subsection (5) (as substituted by section 17 (2) of the Income Tax Amendment Act 1981), the following subsections:

"(5A) Where, in any income year, a payment to any taxpayer is made under regulation 5 (1) of the Forestry Encouragement Grants Regulations 1983,—

"(a) The expenditure of any of the kinds to which the expenditure portion (if any) of that payment relates and on which that expenditure portion is based shall, unless, and except to the extent to which, the amount of that expenditure exceeds two and two-ninths times the amount of that expenditure portion, be deemed not to form part of the cost of the timber for the purposes of section 74 (2) (b) of this Act:

"(b) The expenditure of a capital nature to which the depreciation portion (if any) of that payment relates and on which that depreciation portion is based shall, to the extent of two and two-ninths times the amount of that depreciation portion, be deemed not to form part of the cost of the timber for the purposes of the said section 74 (2) (b).

"(5B) Where, in any income year, a payment to any taxpayer is made under regulation 5 (2) of the Forestry Encouragement Grants Regulations 1983, subsection (5A) of this section shall apply as if—

"(a) The reference therein to regulation 5 (1) were a reference to regulation 5 (2); and

"(b) The expression 'two and two-ninths', in paragraph (a) and paragraph (b) of the said subsection (5A) were, in each case, the expression 'one and one-half'."

(5) This section shall apply with respect to the tax on income derived in the income year that commenced on the 1st day of April 1982 and in every subsequent year.

30. Grant-related suspensory loans—(1) Section 173 (1) (b) of the principal Act (as substituted by section 32 (1) of the Income Tax Amendment Act 1978 and amended by section 61 of the Income Tax Amendment Act 1979) is hereby further amended by repealing subparagraph (iv), and substituting the following subparagraphs:

"(iv) A fishing vessel refrigeration suspensory loan; or

"(v) A fishing vessel construction bounty,—".

(2) This section shall be deemed to have come into force on the 1st day of April 1981.

31. Loss incurred in specified activities—(1) Section 188A of the principal Act (as inserted by section 32 (1) of the Income Tax Amendment Act (No. 2) 1982) is hereby amended, as from its commencement, by inserting, after subsection (5), the following subsection:

"(5A) For the purposes of this section and section 188B of this Act, where—

"(a) Land is sold or otherwise disposed of by a taxpayer; and

"(b) In relation to the taxpayer, subsection (2) of section 129 of this Act applies (subject to subsection (4) of that section) to the amount of the excess (within the meaning of the said subsection (2)) arising on that sale or other disposal of that land; and

"(c) The taxpayer has, in any income year, conducted any specified activity on that land; and

"(d) In the conduct of that specified activity on that land the taxpayer has incurred a loss in any income year or in more than one income year,—

the taxpayer may elect, by notice in writing (which notice shall be irrevocable) given to the Commissioner within the time within which the taxpayer is required to furnish a return of his income for the income year in which the land is so sold or otherwise disposed of, that, of the amount of the said excess, such amount as he specifies in that notice shall be deemed to be assessable income derived from the conduct of that specified activity on that land:

"Provided that in no case shall the amount that is deemed to be assessable income so derived exceed so much of the amount of the loss or, as the case may be, the sum of the amounts of the losses so incurred in the conduct of that specified activity on that land as has not, before the sale or other disposal of that land, been deducted from or set off against the assessable income derived by the taxpayer."

(2) Section 188A of the principal Act (as so inserted) is hereby further amended, as from its commencement, by inserting, after subsection (6), the following subsection:

"(6A) Where, in relation to a taxpayer and to any income year, this section would have effect more favourably if the words ', not being crops (other than flowers) in respect of which

the preparation of the land, and the planting and cultivation of the tree or plant, and the harvesting of the crop is accomplished within a period of 12 months' were omitted from paragraph (b) (ii) of the definition of the expression 'specified activity' in subsection (1) of this section, this section shall, in relation to the taxpayer and to the income year, apply as if the said words were omitted."

(3) Section 188A of the principal Act (as so inserted) is hereby further amended, as from its commencement, by repealing paragraph (c) of subsection (7), and substituting the following paragraph:

"(c) The amount of that loss that may, pursuant to the said sections 19 and 188, be deducted from or set off against the assessable income derived by the taxpayer in year 2, otherwise than from the conduct of that specified activity, shall—

"(i) Where, in year 2, the taxpayer does not incur a loss in, and does not derive assessable income from, the conduct of that specified activity, be, subject to subparagraph (iv) of this paragraph, the amount of the loss carried forward pursuant to paragraph (b) of this subsection:

"(ii) Where, in year 2, the taxpayer incurs a loss in the conduct of that specified activity, be, subject to subparagraph (iv) of this paragraph, the aggregate of the amounts of the losses that are added to each other pursuant to paragraph (b) of this subsection:

"(iii) Where, in year 2, the taxpayer derives assessable income from the conduct of that specified activity, be, subject to subparagraph (iv) of this paragraph, the amount of the loss carried forward pursuant to paragraph (b) of this subsection to the extent that that amount cannot be deducted from or set off against that assessable income pursuant to the said sections 19 and 188:

"(iv) Be in every case, not more than $10,000:".

(4) Section 188A of the principal Act (as so inserted) is hereby further amended, as from its commencement, by inserting, after subsection (7), the following subsection:

"(7A) The amount or, as the case may be, the amounts of any loss incurred by any taxpayer, being a company included in a group of companies, in the conduct of any specified activity that may, in respect of any income year, be—

"(a) Deducted from or set off against the assessable income derived by the taxpayer otherwise than from the conduct of that specified activity pursuant to subsection (7) of this section; or

"(b) Deducted from or set off against the assessable income derived in that income year by any other company or companies included in that group of companies pursuant to section 191 (5) of this Act,—

shall not exceed or, as the case may be, shall not exceed in the aggregate, the lesser of—

"(c) $10,000:

"(d) The amount of that loss."

32. Transitional provisions for payment of income tax arising from application of section 188A—Section 188B (3) of the principal Act (as inserted by section 32 (1) of the Income Tax Amendment Act (No. 2) 1982) is hereby amended, as from its commencement, by omitting the expression "1.25", and substituting the expression "1".

33. Group investment funds—(1) The principal Act is hereby amended by inserting, after section 211, the following subheading and section:

"Group Investment Funds

"211A. **Group investment funds**—(1) For the purposes of this section—

" 'Category A income', in relation to a group investment fund (not being a designated group investment fund), means so much of the assessable income derived from the investments and funds of the group investment fund in any income year as is calculated in accordance with the following formula:

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

Where—

a is the specified value; and

b is the current value of all the investments and funds of the group investment fund; and

c is the total assessable income derived from all of the investments and funds of the group investment fund in that income year:

" 'Category B income', in relation to a group investment fund (not being a designated group investment fund), means so much of the assessable income derived from the investments and funds of the group investment fund in any income year as is not category A income:

" 'Current value', in relation to a group investment fund and to any day in any income year, means the capital value (within the meaning of the Trustee Companies Act 1967 or the Public Trust Office Act 1957) of the investments and funds of the group investment fund being the capital value last determined before that day in accordance with section 31 of the Trustee Companies Act 1967 or section 42C of the Public Trust Office Act 1957, or where that day falls on the same day as the day upon which the capital value is so determined, that capital value:

" 'Designated group investment fund' means—

"(a) Any group investment fund, the investments and funds of which are invested wholly in investments authorised by paragraphs (a) to (j) of section 4 (1) of the Trustee Act 1956 (not being investments that are authorised solely by the instrument, if any, creating the trust under which the group investment fund is established); or

"(b) Any group investment fund, the investments and funds of which are invested wholly in and for the purposes of the carrying on of a forestry business on land in New Zealand, to the extent that those investments and funds are so invested in respect of the land owned or otherwise held, for the purposes of that forestry business, by the group investment fund on the 22nd day of June 1983:

" 'Designated sources', in relation to a group investment fund, means—

"(a) Any trust, other than the trust under which the group investment fund is established, being a trust of any of the kinds specified in section 226 (1) (a) and (b) of this Act, where the trustee of the group investment fund is a trustee of the trust first referred to in this paragraph; or

"(b) Any superannuation category 1 scheme or any superannuation category 2 scheme:

" 'Group investment fund' means a Group Investment Fund established under the Trustee Companies Act 1967 or the Public Trust Office Act 1957:

" 'Investor', in relation to a group investment fund, means any person who is entitled, by reason of the terms of the trust under which the group investment fund is established, to the income from the investments and funds of the group investment fund:

" 'Protected amount', in relation to a group investment fund and to any time, means the aggregate of—

"(a) An amount equal to the current value of the investments and funds from designated sources invested as at that time in the group investment fund; and

"(b) An amount equal to the current value of the investments and funds that were invested in the group investment fund as at the 22nd day of June 1983 as if those investments and funds had continued to be so invested up to the time first mentioned in this definition other than the part of those investments and funds that on that date were attributable to amounts from designated sources;—

and for the purposes of this definition the investments and funds that were invested in the group investment fund as at the 22nd day of June 1983 shall be deemed to include—

"(c) Any money deposited between the 15th day of June 1983 and the 23rd day of June 1983 with the trustee of the group investment fund being money so deposited for investment in the group investment fund; and

"(d) Any money deposited between the 22nd day of June 1983 and the 16th day of July 1983 with the trustee of the group investment fund, being money so deposited for investment in the group investment fund which was, on or before the 22nd day of June 1983, subject to a binding commitment to deposit that money:

" 'Specified value', in relation to a group investment fund and to any income year, means an amount equal to the amount of the current value of all of the investments and funds of the group investment fund on the last day of the income year reduced by an amount equal to the amount that, on that day, is the protected amount.

"(2) For the purposes of this section, the current value of the investments and funds referred to in paragraph (a) and paragraph (b) of the definition of the expression 'protected

amount' in subsection (1) of this section shall be the current value attributable to the investments and funds referred to in the said paragraph (a) or, as the case may be, the said paragraph (b) at any time in relation to which the protected amount is ascertained, as if the investments and funds referred to in the said paragraph (a) or, as the case may be, the said paragraph (b) comprised all of the investments and funds in the group investment fund at that time.

"(3) Any income derived by the trustee of a group investment fund from the investments and funds of the group investment fund shall, to the extent that—

"(a) The income is category A income of the group investment fund, be deemed to be income to which the trustee of the group investment fund is beneficially entitled and the trustee shall make returns and be assessable and liable for income tax on that income accordingly:

"(b) The income is—

"(i) Income derived from the investments and funds of any designated group investment fund; or

"(ii) Category B income of the group investment fund,—

be deemed to be income derived by a trustee and the trustee of the group investment fund shall make returns accordingly and shall be assessable and liable for income tax on that income in accordance with sections 226 to 231 of this Act.

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

(2) Section 4 of the principal Act is hereby amended by inserting, after subsection (1), the following subsection:

"(1A) For the purposes of this Act, the term 'dividends', in relation to any group investment fund (as defined in section 211A of this Act), shall be deemed to include all income of the group investment fund that is category A income (as defined in that section), that is distributed to an investor (as defined in that section), and all other payments to and transactions with an investor (as so defined) in relation to the funds deposited by him or on his behalf with the group

investment fund which, if made to or with a shareholder in relation to shares in a company would be dividends under this Act."

(3) Section 63 of the principal Act is hereby amended by repealing subsection (1), and substituting the following subsection:

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

(4) The First Schedule to the principal Act is hereby amended by inserting, after clause 9B of Part A, the following clause:

"9C. **Trustees of group investments funds**—On all income that is category A income (as defined in section 211A of this Act) assessable to the trustee of the group investment fund under section 211A (3) (a) of this Act, the basic rate of tax for every $1 of the taxable income shall be 45c."

(5) The Income Tax Amendment Act (No. 2) 1982 is hereby consequentially amended by repealing section 10 (2).

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

34. Interpretation—(1) Section 222A (1) of the principal Act (as inserted by section 37 (1) of the Income Tax Amendment Act (No. 2) 1982) is hereby amended by adding to the definition of the expression "cost price", after the second proviso, the following proviso:

"Provided further that in any case where the Commissioner is satisfied that, in relation to a lease asset, an amount, being an amount which would, if it were determined in accordance with the provisions of this definition (including the first and second provisos), be the cost price in relation to the lease asset, cannot be determined in accordance with the said provisions, the cost price in relation to the lease asset shall be deemed to be an amount equal to the market price of the lease asset at the commencement of the lease term or, if there is no such market price or there are 2 or more such market prices, be deemed to be an amount equal

to such amount as, in the circumstances of the case, the Commissioner considers equitable, having regard to the nature of the lease asset, to the tenor of this definition, and to any other matters which he considers relevant:".

(2) Section 222A (1) of the principal Act (as so inserted) is hereby further amended by inserting in the definition of the expression "specified lease", after the words "subsequently by the lessee", the words ", or by any other person where the lessee and that other person are associated persons,".

(3) This section shall apply with respect to every lease entered into on or after the 28th day of October 1983.

35. Cost of producing films—The principal Act is hereby amended by inserting, after section 224C (as inserted by section 38 of the Income Tax Amendment Act (No. 2) 1982), the following section:

"224D. (1) For the purposes of this section—

" 'Depreciation loss', in relation to a film, means an amount equal to the amount of the allowance or, as the case may be, the aggregate of the amounts of the allowances by way of depreciation, in respect of any asset (being an asset used in producing the film) that, had that asset been used in the production of assessable income derived in the income years in which the film production expenditure in relation to the film was incurred, would have been allowable as a deduction under this Act in calculating that assessable income:

" 'Film owner', in relation to a film, means the person who owns a film that has been completed:

" 'Film production expenditure', in relation to a film and to any taxpayer, means any expenditure (not being expenditure incurred in acquiring any asset in respect of which a deduction by way of depreciation is provided in this Act) in respect of which a deduction in calculating assessable income is provided in this Act; and includes any loss which may be deducted pursuant to section 104 of this Act, being expenditure and being a loss incurred by the taxpayer in producing any film (whether that expenditure was incurred prior to, on, or subsequent to the date on which the film is completed) in relation to which the taxpayer is, or is expected to become, a film owner;

and also includes any depreciation loss in relation to the film; but does not include any expenditure incurred by the taxpayer—

"(a) In the acquisition, from any other person, of a film that is completed:

"(b) In the acquisition, from any other person, of any right in a film that is completed:

"(c) Directly in marketing or selling the film:

" 'Final certificate', in relation to a film, means a certificate issued by the New Zealand Film Commission certifying that the film described therein is a New Zealand film:

" 'New Zealand film', in relation to a film, means a film which has been certified by the New Zealand Film Commission as being a film which that Commission is satisfied has a significant New Zealand content in accordance with the criteria set out in section 18 of the New Zealand Film Commission Act 1978:

" 'Provisional certificate', in relation to a film that is proposed to be produced or is in the course of being produced, means a certificate issued by the New Zealand Film Commission certifying that that Commission is satisfied that the film so proposed to be produced or in the course of being produced, and described in the certificate, will, when completed, qualify for certification as a New Zealand film.

"(2) For the purposes of this section, the expressions 'completed', 'copyright', 'double head finecut stage of production', 'film', and 'right' have the same meanings as in section 224A (1) of this Act.

"(3) For the purposes of this section, any film production expenditure incurred by any taxpayer, prior to the film being completed, in reimbursing any other person for film production expenditure incurred by that other person in relation to that film shall be treated in the same manner as though it were film production expenditure incurred by that taxpayer in producing that film.

"(4) This section shall apply subject to section 106A of this Act.

"(5) For the purposes of this Act, where any taxpayer incurs any film production expenditure (not being a depreciation loss) in respect of which a deduction has been or is to be allowed under this section, or where any taxpayer incurs any expenditure in acquiring any asset in respect of which a deduction of film production expenditure (being a depreciation

loss) has been or is to be allowed under this section, no other deduction shall be allowed under any other provision of this Act (including sections 119 to 123)—

"(a) In respect of that film production expenditure or that expenditure in acquiring that asset; or

"(b) To that taxpayer by way of depreciation in respect of any asset acquired by him, or of which he has become possessed, as a result of that film production expenditure or that expenditure in acquiring that asset.

"(6) Where—

"(a) In any income year any taxpayer has incurred any film production expenditure in relation to a film in relation to which he is a film owner; and

"(b) That film has, by means of a final certificate issued by the New Zealand Film Commission, been certified as a New Zealand film,—

the taxpayer shall be entitled to deduct an amount equal to the amount of that film production expenditure in calculating the assessable income derived by him in the later of—

"(c) The income year in which that New Zealand film is completed:

"(d) The income year in which that film production expenditure is incurred.

"(7) Where in any income year any film other than a New Zealand film is completed, and any taxpayer who is a film owner in relation to that film has, whether in that income year or in any income year preceding that income year, incurred any film production expenditure in relation to that film, that taxpayer shall be entitled to deduct, in the following proportions and in calculating the assessable income derived by him in the following income years, the amount or, as the case may be, the aggregate of the amounts of the film production expenditure:

"(a) The income year first mentioned in this subsection, 50 percent; and

"(b) The income year immediately succeeding the said first-mentioned income year, 50 percent:

"Provided that in any case where the amount (if any) received or receivable, by or on behalf of the taxpayer from the sale, use, rental, or other exploitation of that film or of any right in that film, in the income year in which that film is completed exceeds the amount of the film production expenditure that, but for this proviso, would be allowable as a deduction in calculating the assessable income derived by the taxpayer in

that income year, that taxpayer shall be entitled to deduct, in calculating the said assessable income, such amount as is equal to the lesser of—

"(i) The aggregate of the amounts of the film production expenditure incurred by him, in relation to that film, in every income year ending on or before the last day of the income year in which that film is completed:

"(ii) The amount so received or receivable, by him or on his behalf, from the said sale, use, rental, or other exploitation,—

and the amount of the deduction that, but for this proviso, would have been allowable in calculating the assessable income derived by the taxpayer in the income year immediately succeeding the income year first mentioned in this proviso, shall be reduced to only so much as is equal to the amount that remains after deducting from the aggregate referred to in paragraph (i) of this proviso an amount equal to the amount referred to in paragraph (ii) of this proviso, and only that reduced amount shall be so allowable as a deduction.

"(8) Where, in any income year succeeding the income year in which a film is completed, any taxpayer (being a taxpayer who, in relation to that film, is a film owner) incurs any film production expenditure in relation to that film, that taxpayer shall be entitled to deduct an amount equal to the amount of that film production expenditure in calculating the assessable income derived by him in that income year.

"(9) Where, in the income year in which any film other than a New Zealand film is completed, any taxpayer, being the owner of that film or any right therein, ceases to own that film or every right in that film or, as the case may be, ceases to own that film and every right therein which he possessed at any time during that income year, he shall be entitled to deduct an amount equal to the total of the film production expenditure incurred by him in relation to that film in calculating the assessable income derived by him in that income year.

"(10) Where any amount by way of depreciation loss (being a depreciation loss that is film production expenditure) has been allowed as a deduction under this section in calculating the assessable income derived by any taxpayer in any income year, and the asset in relation to which that depreciation loss was calculated is sold or otherwise disposed of or used otherwise than in producing the film to which that film production expenditure relates, the Commissioner shall, to the

extent of an amount which is, or amounts which in the aggregate are, not greater than that amount of depreciation loss, make such adjustments as he considers fair and equitable.

"(11) The New Zealand Film Commission may, following receipt of a written application for certification of a film as a New Zealand film and on receipt of such information as the Commission requires, issue a written provisional certificate or a written final certificate in respect of that film.

"(12) Any provisional certificate or final certificate issued by the New Zealand Film Commission may subsequently be revoked by the Commission where, whether because an incorrect statement was made in the furnishing of information for the purposes of obtaining a certificate or for any other reason, the Commission is satisfied that the certificate should not remain in force; and a certificate that has been so revoked shall be void from the time of its issue.

"(13) Where a provisional certificate or a final certificate has been issued by the New Zealand Film Commission—

"(a) A copy of that certificate shall be sent forthwith to the Commissioner:

"(b) Notice of any revocation of any provisional certificate or final certificate by the New Zealand Film Commission shall forthwith be communicated in writing to the Commissioner.

"(14) Where, in relation to any income year,—

"(a) An amount (in this subsection referred to as the 'specified amount') is contributed by any taxpayer or is contingently liable to be contributed in payment of any of the costs of producing any film; and

"(b) In respect of all or any part of so much of the specified amount as relates to the provision of services or the supply of goods the liability for payment of the cost of which has, in terms of an agreement entered into between the provider of those services or the supplier of those goods and any other person, been deferred, the period between the time of provision of those services or the supply of those goods and the time of the payment of the cost thereof is, in the opinion of the Commissioner, excessive, or the liability for payment of that cost is dependent on a contingency,—

the expenditure in the acquiring of those services or those goods shall be deemed to be incurred at the time or times of the making of that payment or those payments.

"(15) Where, in relation to any income year and to any taxpayer and to any film, the Commissioner is satisfied, having regard to any connection between the taxpayer and any person who supplied goods to, or provided services for, the taxpayer in relation to that film, or to any other circumstances which he considers relevant in the circumstances of the particular case, that—

"(a) The taxpayer and that person were not dealing with each other at arm's length in relation to the supply of those goods or the provision of those services; and

"(b) The amount of the film production expenditure incurred by the taxpayer in relation to that film exceeds the amount that would have been incurred by the taxpayer if the taxpayer and that person had dealt with each other at arm's length,—

the amount of film production expenditure incurred by the taxpayer in relation to that film shall be deemed to be the amount of film production expenditure that, in the opinion of the Commissioner, might have been expected to have been incurred by the taxpayer if the taxpayer and that other person had dealt with each other at arm's length.

"(16) Where, in relation to any income year and to any taxpayer, the Commissioner is satisfied that arrangements have been made between the taxpayer and another person with a view to the affairs of the taxpayer and of that other person being so arranged or conducted that any of the provisions of this section would, but for this subsection, have effect more favourably in that income year in relation to that taxpayer than would otherwise have been the case, the amount of the deduction to which that taxpayer is entitled under this section in that income year shall not exceed the amount to which that taxpayer would, in the opinion of the Commissioner, have been entitled if those arrangements had not been made.

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

(2) Section 224A of the principal Act is hereby consequentially amended by—

(a) Omitting from subsection (2) the words "section 106A", and substituting the words "sections 106A and 224D":

(b) Inserting in subsections (5), (6), and (7), before the word "Where" where it first appears in each subsection, the words "Subject to section 224D of this Act,".

(3) This section shall come into force on the day on which this Act receives the Governor-General's assent and shall apply with respect to films completed (within the meaning of section 224A of the principal Act) on or after that day.

36. Classes of income deemed to be derived from New Zealand—(1) Section 243 (2) (g) of the principal Act is hereby amended by omitting the words "New Zealand company", in both places where they appear, and substituting, in each case, the words "company resident in New Zealand".

(2) Section 243 (2) (i) of the principal Act is hereby amended by omitting the words "any superannuation fund", and substituting the words "any superannuation category 1 scheme or any superannuation category 2 scheme or any superannuation category 3 scheme".

(3) Subsection (1) of this section shall apply with respect to income, being income of the class referred to in section 243 (2) (g) of the principal Act (as amended by subsection (1) of this section), derived by any person on or after the day on which this Act receives the Governor-General's assent.

37. Trustee of group investment fund to be agent of absentee investors—(1) The principal Act is hereby amended by inserting, after section 285, the following section:

"285A. The trustee of any group investment fund (as defined in section 211A of this Act) shall be the agent of every investor (as defined in that section) in the group investment fund, being an investor who is an absentee, and shall make returns and be assessable and liable for income tax accordingly on all dividends paid or credited by the group investment fund to any such investor while he is an absentee."

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

38. Liability as agent of employer of non-resident taxpayer and employer's agent—Section 287 (4) of the principal Act is hereby amended by omitting the words "any

superannuation fund", and substituting the words "any superannuation category 1 scheme or any superannuation category 2 scheme or any superannuation category 3 scheme".

39. Credits in respect of tax paid in country or territory outside New Zealand—(1) Section 293 (1) of the principal Act is hereby amended by adding, after the definition of the expression "income tax", the following definitions:

" 'Member', in relation to a country or territory outside New Zealand, means any person who, under any law in force for the time being in the country or territory outside New Zealand, is liable to income tax in that country or territory by reason of the domicile or residence of the person in that country or territory:

" 'National', in relation to any country or territory, includes a citizen of that country or territory."

(2) Section 293 (2) of the principal Act is hereby amended by adding the following proviso:

"Provided that if the person so resident in New Zealand has, as a national or member of that country or territory, paid income tax in that country or territory in respect of that income, there shall be allowed as a credit against income tax payable in New Zealand in respect of that income only such amount as does not exceed the amount of income tax that would have been paid by the person in that country or territory in respect of that income if he, being resident in New Zealand, had not been a national or member of that country or territory."

(3) This section shall apply with respect to the allowing of credits of income tax against income tax payable in New Zealand for the income year commencing on the 1st day of April 1984 and for every subsequent year.

40. Deduction of tax from payment due to defaulters—(1) Section 400 (1) of the principal Act (as substituted by section 47 (1) of the Income Tax Amendment Act 1980) is hereby amended by repealing the definition of the expression "amount payable", and substituting the following definition:

" 'Amount payable', in relation to a person and to any taxpayer, means—

"(a) Any amount that, on the day on which a notice to the person is given under subsection (2) of this section in relation to the taxpayer, is payable by the person (whether on his own account, or as an agent, or as a trustee, or otherwise howsoever) to the taxpayer:

"(b) Any amount that, on any day following the day referred to in paragraph (a) of this definition, is, or becomes, before any revocation (under subsection (5) of this section) of the notice so given, payable by the person (whether on his own account, or as an agent, or as a trustee, or otherwise howsoever) to the taxpayer;—

and includes—

"(c) Where the person is a bank, money (including any interest thereon) that—

"(i) On the day on which a notice to the person is given under subsection (2) of this section in relation to the taxpayer, is on deposit or is deposited with the person to the credit of the taxpayer; or

"(ii) On any day following the day referred to in subparagraph (i) of this paragraph is on deposit or is deposited, before any revocation (under subsection (5) of this section) of the notice so given, with the person to the credit of the taxpayer,—

whether the deposit or the depositing is on current account, or so as to bear interest for a fixed term or without limitation of time, and whether or not the taxpayer has made any application to withdraw or uplift the money;—

but does not include money deposited in any account that is—

"(d) A Home Lay-by Account within the meaning of the Post Office Act 1959; or

"(e) A Home Ownership Account within the meaning of the Home Ownership Savings Act 1974; or

"(f) A Farm Ownership Account within the meaning of the Farm Ownership Savings Act 1974; or

"(g) A Fishing Vessel Ownership Account within the meaning of the Fishing Vessel Ownership Savings Act 1977:".

(2) Section 400 (2) of the principal Act (as so substituted) is hereby amended by repealing paragraph (a), and substituting the following paragraph:

"(a) Deduct or extract from any amount that is, or from time to time becomes, an amount payable in relation to the taxpayer such sum as is equal to the lesser of—

"(i) The amount that, pursuant to the notice, is required to be deducted:

"(ii) The amount that, at the time at which a deduction or extraction is required to be made in compliance with the notice, is the amount payable in relation to the taxpayer; and".

(3) Section 400 of the principal Act is hereby further amended by repealing subsection (4), and substituting the following subsection:

"(4) Where any notice under this section relates to any amount payable that consists of wages or salary, the sums required to be deducted therefrom shall be computed so as to not exceed the greater of—

"(a) An amount equal to the lesser of the following amounts:

"(i) An amount calculated at the rate of 10 percent per week of the income tax due and payable by the taxpayer at the date of the notice:

"(ii) An amount calculated at the rate of 20 percent of the said wages or salary payable:

"(b) The amount of $10 per week."

(4) Section 400 of the principal Act is hereby further amended by repealing subsection (6), and substituting the following subsection:

"(6) A copy of every notice given, under subsection (2) or subsection (5) of this section, to any person in respect of any taxpayer shall be given forthwith by the Commissioner to the taxpayer; and, for the purposes of section 21C of the Inland Revenue Department Act 1974, every such copy shall be deemed to be a notice required by this Act to be given by the Commissioner to the taxpayer."

(5) This section shall apply in relation to notices under section 400 of the principal Act issued on or after the day on which this Act receives the Governor-General's assent.

41. Keeping of business and other records—(1) Section 428 of the principal Act (as substituted by section 41 of the Income Tax Amendment Act (No. 2) 1982) is hereby amended, as from the commencement of the said section 41,—

(a) By inserting in subsection (3), after the words "shall retain", the words "in New Zealand":

(b) By inserting in the proviso to subsection (3), after the words "to keep", the words "and retain".

(2) Section 428 of the principal Act (as so substituted) is hereby further amended by adding the following subsection:

"(6) Where, on the day on which the Income Tax Amendment Act (No. 3) 1983 receives the Governor-General's assent, there are in the retention of any person any records of the kind referred to in this section that have been kept by any person pursuant to this section as it applied before the coming into operation of section 41 of the Income Tax Amendment Act (No. 2) 1982, those records shall, subject to subsection (4) of this section, be retained by that first-mentioned person for a period of at least 10 years after the end of the income year to which they relate, whether or not (as at the said day) a period of more than 7 years has elapsed since the completion of the transactions, acts, or operations to which those records relate."

(3) Section 41 (2) of the Income Tax Amendment Act (No. 2) 1982 is hereby consequentially amended, as from its commencement, by adding the words ", and with respect to the retaining of all records so kept".

(4) This section shall come into force on the day on which this Act receives the Governor-General's assent.

42. Terminating dates of taxation incentives—(1) The principal Act is hereby further amended by repealing the Third Schedule (as substituted by section 43 of the Income Tax Amendment Act (No. 2) 1982), and substituting the new Third Schedule set out in the Schedule to this Act.

(2) The Income Tax Amendment Act (No. 2) 1982 is hereby consequentially amended by repealing section 43 and the Schedule thereto.

PART II

PROVISIONS RELATING TO MATRIMONIAL AGREEMENTS

43. Interpretation—Section 2 of the principal Act is hereby amended by inserting, after the definition of the expression "Maori land", the following definition:

" 'Matrimonial agreement', in relation to any 2 persons, means—

"(a) An agreement made on or after the 28th day of July 1983 by those persons under section 21 of the Matrimonial Property Act 1976:

"(b) An order of the Court made on or after the 28th day of July 1983 in relation to those persons under section 25 of the Matrimonial Property Act 1976:".

44. Items included in assessable income—(1) Section 65 (1) of the principal Act (as amended by section 22 (1) of the Income Tax Amendment Act 1978 and section 53 of the Income Tax Amendment Act 1979) is hereby further amended by repealing paragraph (b), and substituting the following paragraph:

"(b) Where a commercial bill is disposed of by any taxpayer to a person—

"(i) By sale, gift, or otherwise howsoever, not being a disposal to which subparagraph (ii) of this paragraph applies, that person shall, for the purposes of this paragraph and subsection (2) (k) of this section, be deemed to have purchased it at a cost equal to its value on the day of disposal:

"(ii) In accordance with a matrimonial agreement, the taxpayer shall be deemed to have disposed of the commercial bill, and that person shall be deemed to have purchased it, at a cost equal to the cost at which the taxpayer purchased the bill:".

(2) Section 65 (2) (a) of the principal Act is hereby amended by adding the following proviso:

"Provided that where any transfer of any business is made in accordance with a matrimonial agreement, the value of stock in hand shall be an amount equal to the amount at which that stock is, under section 91A of this Act, deemed to have been sold:".

(3) Section 65 (2) (e) of the principal Act is hereby amended by adding the following proviso:

"Provided that where any such personal property or any interest in such personal property (not being property or any interest therein which consists of land within the meaning of section 67 of this Act) is transferred from any person (referred to hereafter in this proviso as the 'transferor') to any other person (referred to hereafter in this proviso as the 'transferee') in accordance with a matrimonial agreement—

"(i) The transferor shall be deemed to have disposed of that personal property or that interest therein for a consideration equal to the cost thereof to him:

"(ii) The transferee shall be deemed to have acquired that personal property or that interest therein at a cost equal to the amount of the said consideration:

"(iii) Where in any income year the transferee sells or otherwise disposes of that personal property or that interest therein, he shall, in relation to that personal property or that interest therein, and to that sale or other disposition be deemed, for the purposes of this paragraph, to be engaged in a business comprising dealing in such property:".

(4) Section 65 (2) (k) of the principal Act (as amended by section 5 (2) of the Income Tax Amendment Act 1983) is hereby further amended by inserting, after the words "disposed of by him", the words "(otherwise than by way of a transfer made in accordance with a matrimonial agreement)".

45. Profits or gains from land transactions—Section 67 of the principal Act (as amended by section 11 of this Act) is hereby further amended by inserting, after subsection (9A) (as inserted by section 23 of the Income Tax Amendment Act 1980), the following subsections:

"(9B) For the purposes of paragraphs (a) to (e) of subsection (4) of this section, in any case where any land is transferred from any person (referred to hereafter in this subsection as the 'transferor') to any other person (referred to hereafter in this subsection as the 'transferee') in accordance with a matrimonial agreement,—

"(a) The transferor shall be deemed to have disposed of that land for a consideration equal to the total amount that would, if that land had been sold by the transferor on the date of the said transfer, have been the cost price of the land for the purposes of calculating the amount (if any) of the profits or gains, of any of the kinds referred to in the said paragraphs, derived from that sale; and

"(b) The transferee shall be deemed to have incurred expenditure, in the acquisition of that land, of an amount equal to the consideration for which that land is, under paragraph (a) of this subsection, deemed to have been disposed of by the transferor; and

"(c) The transferee shall be deemed to have acquired that land on the day on which it was acquired by the transferor; and

"(d) Where the transferor and the transferee are not associated persons and the transferee subsequently sells or otherwise disposes of that land at a profit or gain (being a profit or gain of the kind referred

to in subsection (12) of this section) the said subsection (12) shall have effect as if the transferor and the transferee were associated persons.

"(9C) For the purpose of paragraph (f) of subsection (4) of this section, in any case where any land is transferred from any person (referred to hereafter in this subsection as the 'transferor') to any other person (referred to hereafter in this subsection as the 'transferee') in accordance with a matrimonial agreement—

"(a) The transferor shall be deemed to have disposed of that land for a consideration equal to the sum of—

"(i) The value of the land, at the date of the commencement of any undertaking or scheme of the kind referred to in the said paragraph (f), commenced, carried on, or carried out by the transferor prior to the transfer, being the value determined by the Commissioner in accordance with subsection (10) of this section; and

"(ii) Expenditure incurred by the transferor prior to the transfer in the carrying on or carrying out, in relation to that land, of any undertaking or scheme of the kind referred to in the said paragraph (f):

"(b) Where the land is acquired from any transferor to whom the provisions of paragraph (a) of this subsection applies, the transferee shall—

"(i) Be deemed to have incurred expenditure, in the acquisition of that land, of an amount equal to the value of the land, being the value referred to in paragraph (a) (i) of this subsection; and

"(ii) Be deemed to have incurred expenditure, in the carrying on or carrying out of the undertaking or scheme which was carried on or carried out by the transferor prior to the transfer, of an amount equal to the expenditure referred to in paragraph (a) (ii) of this subsection:

"(c) Where the land is acquired from any transferor to whom paragraph (a) of this subsection does not apply, the transferee shall be deemed to have incurred expenditure, in the acquisition of that land, of an amount equal to the consideration for which that land is, under subsection (9B) (a) of this section, deemed to have been disposed of by the transferor:

"(d) Where the transferor and the transferee are not associated persons and the transferee subsequently sells or otherwise disposes of that land at a profit or gain (being a profit or gain of the kind referred to in subsection (12) of this section) the said subsection (12) shall have effect as if the transferor and the transferee were associated persons."

46. Benefit from share option or purchase schemes—Section 69 of the principal Act (as amended by section 12 of the Income Tax Amendment Act (No. 2) 1977) is hereby further amended by adding, to subsection (4), the following proviso:

"Provided further that for the purposes of paragraph (a) of the first proviso to this subsection, where the restrictive provisions relating to any shares do not restrict the taxpayer from transferring those shares to any other person in accordance with a matrimonial agreement but would restrict the person to whom they were so transferred from alienating or transferring those shares for a period ending not earlier than 8 years from the end of the income year in which the benefit would otherwise be deemed to have been received by the taxpayer or not earlier than the date of death of the taxpayer, those restrictive provisions shall be deemed to restrict any such transfer by the taxpayer."

47. Income derived from use or occupation of land—(1) Section 74 of the principal Act (as amended by section 12 of the Income Tax Amendment Act (No. 2) 1982) is hereby further amended by inserting, after subsection (3), the following subsection:

"(3A) Notwithstanding the provisions of subsection (3) of this section, where any land with standing timber thereon is transferred from any person (referred to hereafter in this subsection as the 'transferor') to any other person (referred to hereafter in this subsection as the 'transferee') in accordance with a matrimonial agreement, that transfer shall be deemed to be a sale of timber for the purposes of this section (whether or not the sale includes other land or other assets or the land and timber are assets of a business), and in every such case—

"(a) There shall be deemed to be attributable to the timber, on that sale, a consideration equal to the amount of the cost to the transferor of that timber, determined as at the date of the said sale, and that consideration so attributable shall be deemed to be the consideration paid for the timber; and

"(b) The consideration which under this subsection is deemed to be paid for the timber shall be taken into account in calculating the assessable income of the transferor and in calculating the cost of the timber to the transferee:

"Provided that this subsection shall not apply with respect to so much of any standing timber included with a sale of land as consists of trees used for the purposes of a farming or agricultural business to provide shelter or prevent erosion or otherwise for that business or of trees planted or maintained under a forestry encouragement agreement under the Forestry Encouragement Act 1962."

(2) Section 74 of the principal Act is hereby further amended by inserting in subsection (4), after the expression "subsection (3)", the words "or subsection (3A)".

48. Sums received from sale of patent rights—Section 83 of the principal Act is hereby amended by inserting, after subsection (4), the following subsection:

"(4A) For the purposes of this section, where in any income year any person (referred to hereafter in this subsection as the 'transferor') disposes of any patent rights to any other person (referred to hereafter in this subsection as the 'transferee') in accordance with a matrimonial agreement,—

"(a) The transferor shall be deemed to have sold those patent rights in that income year for a consideration equal to the amount (if any) of the expenditure of the kind referred to in subsection (3) (a) of this section or, as the case may be, of the total cost of the kind referred to in subsection (3) (b) of this section, that has not been allowed as a deduction from the assessable income derived by the transferor:

"(b) No deduction of the amount first mentioned in paragraph (a) of this subsection shall be allowed from the assessable income derived by the transferor in any income year:

"(c) The transferee shall be deemed to have incurred expenditure, in the acquisition of those patent rights in that income year, of an amount equal to the value of the consideration for which, under paragraph (a) of this subsection, they are deemed to have been sold by the transferor."

49. Standard value and nil value of livestock—(1) Section 86 (2A) of the principal Act (as inserted by section 14 (3) of the Income Tax Amendment Act (No. 2) 1982) is hereby amended by repealing paragraph (d).

(2) Section 86 (2A) of the principal Act (as so inserted) is hereby further amended by adding the following proviso:

"Provided that where in any income year any livestock is transferred to the taxpayer from any person in accordance with a matrimonial agreement, and by virtue of that transfer the taxpayer commences or recommences to derive income from farming livestock in that income year, the taxpayer shall, except for the purposes of determining whether any subsequent acquisition of farming livestock by the taxpayer constitutes the commencement or recommencement by him of the deriving of income from farming livestock, be deemed not to have so commenced or recommenced to derive income from farming livestock by virtue of that transfer:

"Provided also that for the purposes of this subsection, in any case where any land is transferred from any person (referred to hereafter in this proviso as the 'transferor') to any other person (referred to hereafter in this proviso as the 'transferee') in accordance with a matrimonial agreement, the transferee shall be deemed to have acquired that land on the day on which it was acquired by the transferor."

(3) Section 86 of the principal Act is hereby amended by inserting, after subsection (2A) (as so inserted), the following subsections:

"(2B) Where any livestock is transferred to any taxpayer from any person (referred to hereafter in this subsection as the 'transferor') in accordance with a matrimonial agreement and is thereupon used by the taxpayer in the deriving by him of income from livestock, other than livestock used in dealing operations (that livestock other than livestock used in dealing operations being referred to hereafter in this subsection as the 'farming livestock'), the value to be taken into account by the taxpayer, in respect of that livestock, pursuant to section 85 (2) of this Act shall be—

"(a) Where the taxpayer was, immediately before that transfer, deriving income from farming livestock, a value determined in accordance with the provisions of this section other than the provisions of paragraph (b) of this subsection:

"(b) Where the taxpayer was not, immediately before that transfer, deriving income from farming livestock, and the transferor would, if the livestock had not

been so transferred, have been required to take into account a value in respect of that livestock pursuant to section 85 (2) of this Act in accordance with the provisions of subsection (2A) of this section, and the taxpayer has, with the concurrence of the Commissioner, fixed a standard value in respect of that farming livestock under subsection (2) of this section, then—

"(i) Where that farming livestock was so transferred to the taxpayer during the income year in which it was purchased by the transferor (that income year being referred to hereafter in this subsection as the 'first income year')—

"(A) At the end of the first income year, a value equal to an amount not less than the cost price at which that farming livestock was purchased by the transferor reduced by one-third of the amount by which that cost price exceeds the standard value so fixed:

"(B) At the end of the income year next succeeding the first income year, a value equal to an amount not less than the cost price at which that farming livestock was purchased by the transferor reduced by two-thirds of the amount by which that cost price exceeds the standard value so fixed:

"(C) At the end of the income year next succeeding the income year to which subparagraph (i) (B) of this paragraph applies, the standard value so fixed:

"(ii) Where that farming livestock was so transferred to the taxpayer during the income year next succeeding the first income year (that next succeeding income year being referred to hereafter in this subsection as the 'second income year')—

"(A) At the end of the second income year, a value equal to an amount not less than the cost price at which that farming livestock was purchased by the transferor reduced by two-thirds of the amount by which that cost price exceeds the standard value so fixed:

"(B) At the end of the income year next succeeding the second income year, the standard value so fixed:

"(iii) Where that farming livestock was so transferred to the taxpayer during the income year next succeeding the second income year, the standard value so fixed.

"(2C) The value taken into account pursuant to—

"(a) Subparagraph (i) or, as the case may be, subparagraph (ii) of paragraph (c) of subsection (2A) of this section; or

"(b) Subparagraph (i) or, as the case may be, subparagraph (ii) of paragraph (b) of subsection (2B) of this section—

shall, so far as it is applicable, be deemed to be, for the purposes of subsections (4) and (5) of this section, and sections 88, 89, 93, 94, and 95 of this Act, the standard value adopted or last adopted by the taxpayer or, as the case may be, the deceased taxpayer and for the time being in force under this Act.

"(2D) For the purposes of this section, in any case where the taxpayer has acquired any land by way of a transfer from any other person in accordance with a matrimonial agreement the taxpayer shall be deemed to have acquired that land on the day on which that land was acquired by that other person."

50. Income derived from disposal of trading stock—Section 90 (3) of the principal Act is hereby amended by inserting, after the words "otherwise than by sale", the words "and otherwise than by way of a transfer in accordance with a matrimonial agreement".

51. Sale of trading stock for inadequate consideration—Section 91 of the principal Act is hereby amended by inserting, after subsection (3), the following subsection:

"(4) This section shall not apply in respect of any trading stock which is transferred to any person in accordance with a matrimonial agreement."

52. Alternative value for trading stock transferred in accordance with matrimonial agreement—(1) The principal Act is hereby amended by inserting, after section 91, the following section:

"91A. (1) For the purposes of this section the term 'trading stock' has the same meaning as in section 91 (1) of this Act.

"(2) Where in any income year any trading stock is transferred from any person (referred to hereafter in this section as the 'transferor') to any other person (referred to hereafter in this section as the 'transferee') in accordance with a matrimonial agreement, the trading stock shall be deemed for the purposes of this Act to have been sold at and to have realised during that income year—

"(a) Where that trading stock was used by the transferor in any business carried on by him and was held by the transferor at the commencement of the income year, an amount equal to the greater of—

"(i) The value taken into account by the transferor in respect of that trading stock, pursuant to section 85 (2) of this Act, at the end of the last preceding income year:

"(ii) The value of that trading stock to be taken into account by the transferee at the end of the income year, determined pursuant to section 85 (4) of this Act or, where that trading stock is livestock in respect of which the transferee has fixed a standard value in accordance with section 86 (2) of this Act, the value so fixed; and

"(b) Where that trading stock was used by the transferor in any business carried on by him and was acquired by the transferor during the income year, an amount equal to the price at which that trading stock was so acquired; and

"(c) Where that trading stock was not used by the transferor in any business carried on by him, an amount equal to the cost price at which that trading stock was acquired by him,—

and for the purposes of this Act that trading stock shall be deemed to have been purchased by the transferee, during the income year first mentioned in this subsection, at a price equal to the amount which the said trading stock is so deemed to have realised.

"(3) Where any trading stock to which paragraph (a) or paragraph (b) of subsection (2) of this section applies is not used by the transferee in the carrying on by him of any business and is in any income year sold or otherwise disposed of by the transferee, that sale or other disposal shall, for the purposes of this Act, be deemed to be a sale of trading stock used by the transferee in the carrying on by him of a business."

53. Revised assessments where assets purchased and resold after deduction of payments under lease—(1) Section 107 (1) (b) (ii) of the principal Act is hereby amended by inserting, after the words "otherwise acquired that asset,", the words "not being an acquisition resulting from a matrimonial agreement,".

(2) Section 107 of the principal Act is hereby further amended by inserting, after subsection (1), the following subsection:

"(1A) Where—

"(a) Any person has leased, rented, or hired any asset, being any plant or machinery (including a motor vehicle) or other equipment or a temporary building, and the Commissioner has allowed a deduction, in calculating the assessable income of that person in any income year, for the consideration paid or given in respect of that lease, rental, or hire; and

"(b) That person, or any other person where that person and that other person are associated persons, at any time purchases or otherwise acquires that asset; and

"(c) That person or that other person who so purchases or otherwise acquires that asset (that person or, as the case may be, that other person being referred to hereafter in this subsection as the 'transferor') at any time transfers that asset to any further person (referred to hereafter in this subsection as the 'transferee') in accordance with a matrimonial agreement; and

"(d) The transferee sells or otherwise disposes of that asset for a consideration in excess of the amount at which, under subsection (3) (c) of this section, that asset is deemed to have been sold by the transferor,—

the Commissioner may include in the assessable income of the transferee derived in the income year in which the asset is sold or otherwise disposed of by him an amount equal to the excess or the total amount of the deductions so allowed in calculating the assessable income of the person first mentioned in this subsection, whichever is the less."

(3) Section 107 (3) (b) of the principal Act is hereby amended by inserting, after the words "otherwise disposed of", the words ", not being a disposition to which subsection (3) (c) of this section relates,".

(4) Section 107 (3) of the principal Act is hereby further amended by adding the following paragraph:

"(c) Where any asset to which this section relates has been disposed of by any person (referred to hereafter in this paragraph as the 'transferor') in accordance with a matrimonial agreement that asset shall be deemed to have been sold at and to have realised an amount equal to the value to which, at the commencement of the income year in which the asset is transferred, the asset has been reduced by the allowance of any deduction or deductions in respect of the depreciation of that asset or, where the asset was purchased or otherwise acquired by the transferor during that income year, shall be deemed to have been sold at and to have realised the consideration for which the transferor purchased or otherwise acquired it."

54. Depreciation allowance where asset acquired by taxpayer as a result of a transfer under a matrimonial agreement—(1) The principal Act is hereby amended by inserting, after section 111, the following section:

"111A. Notwithstanding section 111 of this Act, where any taxpayer (referred to hereafter in this section as the 'transferee') has acquired any asset, being an asset acquired as a result of a transfer made in accordance with a matrimonial agreement, from any person (referred to hereafter in this section as the 'transferor') entitled to a deduction in respect of the depreciation of that asset, whether or not any such deduction has been allowed to the transferor, then for the purposes of this Act sections 108 to 110 and sections 112 to 116 of this Act shall apply, with any necessary modifications, in relation to any income year, as if—

"(a) The transferee had incurred expenditure in the acquisition of that asset of an amount equal to the amount of the consideration for which the asset is deemed under section 117 (6A) or section 220 (7A) of this Act to have been disposed of by the transferor:

"(b) The asset so acquired by the transferee, being an asset which was purchased, acquired, erected, installed, altered, extended, improved, or attached by the transferor during the income year in which the transfer was made,—

"(i) Was, as the case may be, purchased, acquired, erected, installed, altered, extended, improved, or attached by the transferee during that income year; and

"(ii) Where that asset was new within the meaning of the definition of the expression 'new' in section 112 (1) or section 114C (1) of this Act when it was purchased, acquired, or erected by the transferor, was new (within the said meaning) as at the time at which it was so acquired by the transferee:

"Provided that in no case shall the Commissioner allow as a deduction to the transferee any greater amount in respect of the depreciation of any asset to which this section applies than he would have allowed to the transferor if the transferor had retained the asset:

"Provided also that in any case where that asset is a building, the Commissioner shall, in determining the amount of any deduction allowable under section 108 of this Act in respect of the depreciation of that asset, have regard to the original cost price of that asset to the transferor."

(2) The principal Act is hereby consequentially amended by inserting in sections 108 (1), 113 (1), 114 (2), 114A (2), 114B (2), and 115 (1), after the expression "111", in each case where it appears, the expression ", 111A".

(3) Section 116 (1) of the principal Act is hereby consequentially amended by inserting, after the expression "111", the expression "and 111A".

55. Revised assessments where assets sold after deduction of depreciation allowances—Section 117 of the principal Act (as amended by section 24 (1) of the Income Tax Amendment Act 1978) is hereby further amended by inserting, after subsection (6), the following subsection:

"(6A) For the purposes of this section, notwithstanding the provisions of subsection (5) of this section, where any asset owned by any taxpayer is transferred to any person in accordance with a matrimonial agreement,—

"(a) The taxpayer shall be deemed to have disposed of the asset for a consideration equal to the value to which, at the commencement of the income year in which the asset is transferred, the asset has been reduced by the allowance of any deduction or deductions by way of depreciation in respect of the asset or, if the asset was purchased or otherwise acquired by the taxpayer during that income year, he shall be deemed to have disposed of it for a consideration equal to the expenditure of a capital nature incurred by him in acquiring the asset; and

"(b) The said person shall be deemed to have been allowed, in calculating the assessable income derived by him, a deduction (being a deduction that is additional to any deduction by way of depreciation allowed by the Commissioner, in respect of the asset, in calculating any assessable income derived by the said person) of an amount equal to the sum of all deductions allowed by the Commissioner to the taxpayer in respect of the depreciation of the asset."

56. General provisions relating to investment allowances—(1) Section 118 (3) of the principal Act is hereby amended by adding the following proviso:

"Provided that this subsection shall not apply to any taxpayer in respect of any plant or machinery that is transferred from him to any person in accordance with a matrimonial agreement."

(2) Section 118 of the principal Act is hereby further amended by inserting, after subsection (9), the following subsections:

"(10) For the purposes of this section and sections 119 to 123 of this Act, where any taxpayer (referred to hereafter in this subsection as the 'transferee') has acquired, as a result of any transfer made in accordance with a matrimonial agreement, any plant or machinery from any person (referred to hereafter in this subsection as the 'transferor') in the income year in which that plant or machinery is acquired, installed, or extended by the transferor—

"(a) The transferee shall be deemed to have acquired, installed, or extended that plant or machinery on the day on which it was, as the case may be, acquired, installed, or extended by the transferor:

"(b) The transferee shall be deemed to have first used that plant or machinery in the production of his assessable income and in the same manner as it was first used by the transferor in the production of the assessable income of the transferor, on the day it was first so used by the transferor:

"(c) The transferee shall be deemed to have incurred, in the income year in which that transfer is made, in acquiring, installing, or extending that plant or machinery, capital expenditure of an amount equal to the amount of the expenditure of a capital nature incurred by the transferor in, as the case may be, acquiring, installing, or extending that plant or machinery:

"(d) That plant or machinery shall, where it was new when it was acquired, installed, or extended by the transferor, be deemed to be new on the date on which it is acquired by the transferee as a result of the said transfer:

"(e) The transferor shall not be entitled to any deduction under any of sections 119 to 123 of this Act in respect of any of the capital expenditure incurred by him, an amount equal to which is, under paragraph (c) of this subsection, deemed to have been incurred by the transferee.

"(11) For the purposes of this section and sections 119 to 123 of this Act, where—

"(a) Any taxpayer (referred to hereafter in this subsection as the 'transferee') has acquired, as a result of any transfer made in accordance with a matrimonial agreement, any plant or machinery from any person (referred to hereafter in this subsection as the 'transferor') in the income year next succeeding the income year in which that plant or machinery was acquired, installed, or extended by the transferor; and

"(b) The transferee sells, disposes of, or otherwise ceases to use the said plant or machinery (being plant or machinery in respect of which the transferor has been allowed a deduction by way of an investment allowance) in the production of assessable income in New Zealand within 12 months after the date on which the plant or machinery was first so used by the transferor,—

the Commissioner may disallow any such deduction allowed to the transferor and for this purpose the Commissioner may, notwithstanding section 25 of this Act, make a revised assessment or assessments accordingly in respect of any income year without allowing that deduction."

57. Certain expenditure relating to energy conservation—(1) Section 125 (4) of the principal Act is hereby amended by adding the following proviso:

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

(2) Section 125 of the principal Act (as so amended) is hereby further amended by inserting, after subsection (4A), the following subsections:

"(4B) For the purposes of this section, where in any income year in which expenditure of a capital nature is incurred by any person in acquiring or installing any asset (that person being referred to hereafter in this subsection as the 'transferor') that asset is transferred to any other person (referred to hereafter in this subsection as the 'transferee') in accordance with a matrimonial agreement—

"(a) The transferee shall be deemed to have acquired or installed that asset on the date on which it was acquired or installed by the transferor:

"(b) That asset shall, where it was new when it was acquired or installed by the transferor, be deemed to be new on the date on which it is acquired by the transferee as a result of the said transfer:

"(c) The transferee shall be deemed to have incurred expenditure of a capital nature in acquiring or installing that asset of an amount equal to the amount of the expenditure of a capital nature incurred by the transferor in the acquiring or, as the case may be, the installing of that asset:

"(d) The transferor shall not be allowed a deduction under this section in respect of any expenditure of a capital nature incurred in acquiring or installing that asset.

"(4C) Where any person (referred to hereafter in this subsection as the 'transferor') has been allowed a deduction under this section in respect of the cost of any asset in respect of which, but for that deduction, a deduction by way of depreciation would have been allowable under this Act, and the asset is transferred to any other person (referred to hereafter in this subsection as the 'transferee') in accordance with a matrimonial agreement,—

"(a) The transferor shall be deemed to have disposed of that asset otherwise than for valuable consideration:

"(b) The transferee shall be deemed to have acquired that asset otherwise than for valuable consideration:

"(c) Where the asset is sold or otherwise disposed of by the transferee within 5 years from the date of the acquisition of that asset by the transferor, the amount derived by the transferee from the sale or other disposal of that asset shall be deemed to be assessable income derived by the transferee in the income year in which the asset is so sold or otherwise disposed of:

"Provided that in no case shall the amount which under this paragraph is deemed to be assessable income exceed the

amount of the cost, being an amount equal to the sum of the amount of the cost to the transferor and the amount of the cost to the transferee, of the asset so sold or otherwise disposed of."

58. Revised assessments where land or fish farms or certain assets sold within 10 years of acquisition after deductions in respect of certain expenditure— (1) Section 129 of the principal Act (as amended by section 20 of this Act) is hereby further amended by inserting, after subsection (3), the following subsection:

"(3A) For the purposes of subsection (3) of this section, in any case where any asset of the kind referred to in that subsection has been acquired by the taxpayer by way of transfer from any other person in accordance with a matrimonial agreement (not being a matrimonial agreement that consists of an order of the Court of the kind referred to in subsection (9) (e) (i) of this section) the taxpayer shall be deemed to have—

"(a) Acquired that asset on the day on which it was acquired by the other person; and

"(b) Acquired that asset at a cost equal to the cost of that asset to the other person; and

"(c) Been allowed, pursuant to section 127 or section 128 of this Act, a deduction of an amount equal to the amount or, as the case may be, the aggregate of the amounts allowed as a deduction under the said section 127 or section 128, in respect of the expenditure incurred by the other person in the acquisition of that asset, in calculating the assessable income derived by the other person,—

and (for the said purposes) the other person shall be deemed not to have been allowed a deduction of any amount (being an amount in respect of the expenditure incurred by him in the acquisition of that asset) in relation to which paragraph (c) of this subsection applies."

(2) Section 129 of the principal Act (as so amended) is hereby further amended by inserting, after subsection (7), the following subsection:

"(7A) For the purposes of subsection (2) of this section, in any case where any taxpayer has acquired any land by way of a transfer from any other person (referred to hereafter in this subsection as the 'transferor') in accordance with a matrimonial agreement (not being a matrimonial agreement that consists of an order of the Court to which subsection (9) (e) (i) of this section applies),—

"(a) The taxpayer shall be deemed to have—

"(i) Acquired that land on the day on which that land was acquired by the transferor; and

"(ii) Acquired that land at a price equal to the aggregate of the amounts of the expenditure, incurred by the transferor in respect of that land before the said transfer, of the kinds referred to in subparagraphs (i) to (v) of subsection (2) (c) of this section or, as the case may be, in subparagraphs (i) to (vi) of subsection (2) (d) of this section, being in every case expenditure in respect of which no deduction has been allowed under this Act; and

"(b) The taxpayer shall, in respect of or in relation to that land, be deemed to have been allowed (as if in the calculation of the assessable income derived by him) under section 126 or section 127 or section 128 of this Act, or in respect of deduction for interest the same amounts of deduction in respect of expenditure of any of the kinds referred to in those sections and the same amounts of deduction for interest as, in respect of or in relation to that land, have been allowed in calculating the assessable income derived by—

"(i) The transferor; or

"(ii) Any other person (not being the transferee) where the transferor and that other person are associated persons; or

"(iii) The transferor and that last-mentioned other person; and

"(c) The transferor shall (for the said purposes) be deemed to have sold that land, on the day on which it was acquired by the taxpayer by way of transfer from the transferor, for a consideration equal to the amount of the price referred to in paragraph (a) (ii) of this subsection."

(3) Section 129 of the principal Act (as so amended) is hereby further amended by repealing subparagraph (i) of subsection (9) (e), and substituting the following subparagraph:

"(i) Section 25 (1) of the Matrimonial Property Act 1976 in any case where that order was made notwithstanding section 25 (3) of that Act; or".

59. Pensions payable to former employees—Section 151 (1) of the principal Act (as amended by section 12 (8) of this Act) is hereby further amended by adding the following proviso:

"Provided that where any part of the pension otherwise payable by the employer to the former employee is paid on or after the 28th day of July 1983 by the employer to any person other than the employee in accordance with an agreement made between the former employee and that other person under section 21 of the Matrimonial Property Act 1976 or in compliance with an order of the Court made under section 25 of that Act, the provisions of this subsection shall apply in the same manner and to the same extent to the amount of the part so paid as it would have applied if that amount had been, or formed part of, an amount paid by way of a pension to that former employee."

60. Losses incurred may be set off against future profits—(1) Section 188 (7) of the principal Act (as substituted by section 40 (3) of the Income Tax Amendment Act 1980) is hereby amended by omitting from paragraph (b) (iii) the words "associated persons:", and substituting the words "associated persons; or".

(2) Section 188 (7) of the principal Act (as so substituted) is hereby further amended by inserting, after paragraph (b), the following paragraph:

"(c) Where the requirements of paragraphs (a) and (b) of this subsection are not met, the failure to meet those requirements was by reason only of the fact that those shares had been transferred in accordance with a matrimonial agreement:".

61. Loss incurred in specified activities—(1) Section 188A of the principal Act (as inserted by section 32 (1) of the Income Tax Amendment Act (No. 2) 1982 and amended by section 31 of this Act) is hereby further amended by repealing the definition of the expression "established activity", and substituting the following definition:

" 'Established activity', in relation to a taxpayer who is an existing farmer, means any specified activity or specified activities (not being a specified activity within the meaning of paragraph (i) of the definition of the expression 'specified activity' in this subsection)—

"(a) That the taxpayer conducted on the 11th day of October 1982, where, in the opinion of the Commissioner, the conduct of the specified activity or the specified activities constituted the livelihood of the taxpayer and his sole or principal source of income:

"(b) That the taxpayer conducts on land which was acquired by the taxpayer by way of a transfer from any person (referred to hereafter in this definition as the 'transferor') in accordance with a matrimonial agreement, being a specified activity or specified activities which the transferor conducted on the 11th day of October 1982, and being, in every case, a specified activity which, in the opinion of the Commissioner, was the specified activity or one of the specified activities the conduct of which constituted, as at that date, the livelihood of the transferor and his sole or principal source of income:".

(2) Section 188A of the principal Act (as so amended) is hereby further amended by inserting, after subsection (4), the following subsection:

"(4A) For the purposes of subsection (4) of this section, in any case where any land of the kind to which that subsection refers was acquired or commenced to be held by the taxpayer by way of or pursuant to a transfer from any person (referred to hereafter in this subsection as the 'transferor') in accordance with a matrimonial agreement, the taxpayer shall, where the transferor was an existing farmer immediately before the date of the said transfer, be deemed, as at the date of the said transfer, to have acquired or, as the case may be, commenced to hold the said land on the first day of the period throughout which the transferor owned or held the said land, being the period that ended with the day immediately preceding the date on which the taxpayer so acquired or, as the case may be, so commenced to hold the said land:

"Provided that in any case where the taxpayer commences to conduct, on that land, any specified activity that is of the same kind as any specified activity conducted on that land by the transferor immediately before the said transfer, the taxpayer shall not, in relation to that commencement by him of the conduct of that specified activity, be so deemed to have acquired or, as the case may be, commenced to hold that land on the said first day."

62. Resident mining operators—Section 220 of the principal Act (as amended by section 21 of the Income Tax Amendment Act 1981 and section 35 of the Income Tax Amendment Act (No. 2) 1982) is hereby further amended by inserting, after subsection (7), the following subsection:

"(7A) For the purposes of this section, and notwithstanding subsection (7) of this section, where in any income year any asset owned by any person (referred to hereafter in this subsection as the 'transferor') is transferred to any other person (referred to hereafter in this subsection as the 'transferee') in accordance with a matrimonial agreement, the following provisions shall apply:

"(a) Where the transferor is a resident mining operator and that asset is an asset that was used by the transferor, immediately before the said transfer, in gaining or producing assessable income from mining, the transferor shall be deemed to have sold or otherwise disposed of that asset, when so transferred, for a consideration of an amount equal to the lesser of—

"(i) The amount of the expenditure incurred by the transferor in the acquisition of that asset:

"(ii) Where any deduction by way of depreciation has been allowed to the transferor in respect of that asset, an amount equal to the value to which, at the commencement of the income year in which the asset is so transferred, that asset has been reduced by the allowance of all such deductions:

"(iii) Where that asset is an asset acquired as a result of exploration expenditure or development expenditure incurred by the transferor in respect of which the Commissioner has allowed any deduction pursuant to subsection (7) of this section and to section 216 (8) of this Act, the amount of the said exploration expenditure or, as the case may be, development expenditure reduced by an amount equal to the sum of the amounts of all such deductions:

"(b) In any case where paragraph (a) of this subsection applies, the transferee shall be deemed to have incurred expenditure in the acquisition of that asset, when so transferred to him, of an amount equal to the amount of the consideration for which the transferor is, under the said paragraph (a), deemed to have sold or otherwise disposed of that asset:

"(c) Where, in any case where paragraph (a) of this subsection applies, the transferor is deemed to have sold or otherwise disposed of that asset for a consideration of an amount equal to the amount calculated in accordance with subparagraph (iii) of that paragraph, and the transferee, being a transferee who, immediately after the said transfer, is not a resident

mining operator, at any time sells or otherwise disposes of that asset,—

"(i) The transferee shall, in relation to that sale or other disposal, be deemed to be a resident mining operator; and

"(ii) That sale or other disposal shall be deemed to be a sale or other disposal to which, in relation to subsections (12), (13), and (14) of section 216 of this Act, subsection (7) of this section applies; and

"(iii) The value of the consideration received or receivable by the transferee for that sale or other disposal shall, for the purposes of section 216 of this Act, be deemed to be such amount as is equal to the amount by which the value of the consideration received or receivable by the transferee for that sale or other disposal exceeds the amount of the consideration first mentioned in this paragraph:

"(d) Where the transferee is, immediately after the said transfer, a resident mining operator, the transferee shall be deemed to have incurred expenditure in the acquisition of that asset, when so transferred, of an amount equal to the lesser of—

"(i) The amount of the expenditure incurred by the transferor in the acquisition of that asset:

"(ii) Where any deduction by way of depreciation has been allowed to the transferor in respect of that asset, an amount equal to the value to which, at the commencement of the income year in which the asset is so transferred, that asset has been reduced by the allowance of all such deductions:

"(iii) Where that asset is an asset acquired as a result of exploration expenditure or development expenditure incurred by the transferor in respect of which the Commissioner has allowed any deduction pursuant to subsection (7) of this section and to section 216 (8) of this Act, the amount of the said exploration expenditure or, as the case may be, development expenditure reduced by an amount equal to the sum of the amounts of all such deductions:

"(e) Where, in any case where paragraph (d) of this subsection applies, the transferee is deemed to have incurred expenditure in the acquisition of that asset of an amount calculated in accordance with subparagraph

(iii) of that paragraph, the transferee shall, for the purposes of subsections (11), (12), (13), and (14) of section 216 of this Act, be deemed to have acquired that asset as a result of exploration expenditure or development expenditure incurred by the transferee."

SCHEDULE

Section 42

NEW THIRD SCHEDULE TO PRINCIPAL ACT

"THIRD SCHEDULE

Section 2

TERMINATING DATES

Section of Act	General Description	Terminating Date
119	Regional investment allowance	31 March 1983
120	Export investment allowance	31 March 1983
121	Industrial development plan investment allowance	31 March 1986
121A	High priority activity investment allowance	31 March 1984
122	Farming and agriculture investment allowance	31 March 1985
123	Fishing investment allowance	31 March 1983
127	Development expenditure on farming or agricultural land	31 March 1986
128	Development expenditure on aquaculture	31 March 1986
156	Increased exports	31 March 1983
156A	Export performance incentive for qualifying goods	31 March 1985
156B	Export performance incentive for qualifying services	31 March 1985
156D	Export performance incentive for qualifying overseas projects	31 March 1985
156E	Export performance incentive for qualifying tourist services	31 March 1985
156F	Export-market development and tourist-promotion incentive	31 March 1985
156G	Export-market development (self-employed taxpayers) incentive	31 March 1985
157	Increased exports to new markets	31 March 1981
158A	Export earnings from qualifying overseas projects	31 March 1980

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

This Act is administered in the Inland Revenue Department.