



## ANALYSIS

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**An Act to amend the Tax Administration Act  
1994** [10 April 1995]

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

**1. Short Title and commencement**—(1) This Act may be cited as the Tax Administration Amendment Act 1995, and shall be read together with and deemed part of the Tax Administration Act 1994 (hereinafter referred to as the principal Act).

(2) Except as provided in subsection (3), this Act shall come into force on the date on which it receives the Royal assent.

(3) Section 3 (1), (2), (4), and (8), section 10, and sections 13 to 16 are deemed to have come into force on 1 April 1995.

**2. Application of principal Act**—Section 1 of the principal Act is amended by adding the following subsection:

“(3) This Act shall also apply with respect to late 1994–95 income years to the extent specified in section YB 7 of the Income Tax Act 1994.”

**3. Interpretation**—(1) Section 3 (1) of the principal Act is amended by repealing the definition of “assessment”, and substituting the following definition:

“ ‘Assessment’ —

“(a) Is defined in section 21 (8) for the purposes of that section:

“(b) Is defined in section 91E (6) for the purposes of that section.”

(2) Section 3 (1) is further amended by inserting, after the definition of “benefit”, the following definition:

“ ‘Binding ruling’ means any—

“(a) Public ruling made under section 91D:

“(b) Private ruling made under section 91E:

“(c) Product ruling made under section 91F.”

(3) Section 3 (1) is further amended by repealing the definitions of the terms “Deputy Commissioner of Inland Revenue” and “District Commissioner of Inland Revenue”.

(4) Section 3 (1) is further amended by inserting, after the definition of “determination of loss carried forward”, the following definition:

“ ‘Discretion’ is defined in section 91B for the purposes of Part VA.”

(5) Section 3 (1) is further amended by inserting, after the definition of “gift-exempt body”, the following definition:

“ ‘Government agency’, in section 6, includes any department or Crown entity (as those terms are defined in the Public Finance Act 1989) and any public authority (as defined in the Income Tax Act 1994):”.

(6) Section 3 (1) is further amended by repealing the definition of “Regional Controller of Inland Revenue”.

(7) Section 3 (1) is further amended by inserting, after the definition of “specified rate of interest”, the following definition:

“ ‘Tax’, in sections 6, 6A, and 6B, includes any revenue or entitlements covered by the Inland Revenue Acts; and ‘taxpayer’ has a corresponding meaning:”.

(8) Section 3 (1) is further amended by inserting, after the definition of “tax deduction”, the following definition:

“ ‘Taxation law’ is defined in section 91B for the purposes of Part VA:”.

**4. New sections substituted**—The principal Act is amended by repealing section 6, and substituting the following sections:

**“6. Responsibility on Ministers and officials to protect integrity of tax system**—(1) Every Minister and every officer of any government agency having responsibilities under this Act or any other Act in relation to the collection of taxes and other functions under the Inland Revenue Acts are at all times to use their best endeavours to protect the integrity of the tax system.

“(2) Without limiting its meaning, ‘the integrity of the tax system’ includes—

“(a) Taxpayer perceptions of that integrity; and

“(b) The rights of taxpayers to have their liability determined fairly, impartially, and according to law; and

“(c) The rights of taxpayers to have their individual affairs kept confidential and treated with no greater or lesser favour than the tax affairs of other taxpayers; and

“(d) The responsibilities of taxpayers to comply with the law; and

“(e) The responsibilities of those administering the law to maintain the confidentiality of the affairs of taxpayers; and

“(f) The responsibilities of those administering the law to do so fairly, impartially, and according to law.

“**6A. Commissioner of Inland Revenue**—(1) The person appointed as chief executive of the Department under the State Sector Act 1988 is designated the Commissioner of Inland Revenue.

“(2) The Commissioner is charged with the care and management of the taxes covered by the Inland Revenue Acts and with such other functions as may be conferred on the Commissioner.

“(3) In collecting the taxes committed to the Commissioner’s charge, and notwithstanding anything in the Inland Revenue Acts, it is the duty of the Commissioner to collect over time the highest net revenue that is practicable within the law having regard to—

“(a) The resources available to the Commissioner; and

“(b) The importance of promoting compliance, especially voluntary compliance, by all taxpayers with the Inland Revenue Acts; and

“(c) The compliance costs incurred by taxpayers.

“**6B. Directions to Commissioner**—(1) The Governor-General may by Order in Council, and with due regard to sections 6 and 6A of this Act and the provisions of the State Sector Act 1988 and the Public Finance Act 1989, issue directions to the Commissioner in relation to the administration of the Inland Revenue Acts.

“(2) Subsection (1) does not authorise the giving of directions concerning the tax affairs of individual taxpayers or the interpretation of tax law.

“(3) Every order made under subsection (1) shall as soon as practicable after it is made—

“(a) Be published in the *Gazette*; and

“(b) Be laid before the House of Representatives together with any accompanying statement of the reasons for the order and any advice of the Commissioner in relation to it.

“(4) An order made under subsection (1) becomes binding on the Commissioner on the 7th day after the date on which it is made.”

**5. Repeal of provisions relating to Deputy Commissioners, Regional Controllers, and District Commissioners**—Sections 8 to 11 of the principal Act are repealed.

**6. Official seal**—Section 12 of the principal Act is amended by repealing subsection (2).

**7. Proof of signature of Commissioner**—The principal Act is amended by repealing section 13, and substituting the following section:

“13. (1) The stamped or printed signature of the Commissioner or an officer of the Department may be used on any certificate, notice, or other document in relation to the exercise of the Commissioner’s or officer’s powers, duties, and functions under this or any other Act.

“(2) Any certificate, notice, or other document purporting to bear the written, stamped, or printed signature of the Commissioner or an officer of the Department shall, until the contrary is proved, be deemed to have been duly signed by the person whose signature it purports to bear.

“(3) Judicial notice shall be taken of every such signature and of the fact that the person whose signature it purports to be holds or has held office as Commissioner or other relevant officer of the Department, as the case may require.”

**8. Non-active companies may be excused from filing returns**—The principal Act is amended by inserting, after section 43, the following section:

“43A. (1) A company is not required to furnish a return of income in respect of any income year if the company—

“(a) Is a non-active company throughout that income year; and

“(b) Has made and furnished to the Commissioner, in a form approved by the Commissioner,—

“(i) A declaration that it is a non-active company, and that it will inform the Commissioner if it ceases to be a non-active company; and

“(ii) A statement of such other matters as the Commissioner may require; and

“(c) Has not since the making of the declaration ceased to be a non-active company.

“(2) For the purposes of this section, a company is a non-active company for an income year if, throughout that income year, the company—

“(a) Has not derived or been deemed to have derived any income; and

“(b) Has not disposed of or been deemed to have disposed of any assets; and

“(c) Has not been a party to or perpetuated or continued with any transactions which, during the income year,—

“(i) Give rise to income or deemed income in any person’s hands; or

“(ii) Give rise to fringe benefits to any employee or former employee; or

“(iii) Give rise to a debit in the company’s imputation credit account or dividend withholding payment account.

“(3) In determining whether a company complies with the requirements of subsection (2), no account shall be taken of any—

“(a) Statutory company filing fees or associated accounting or other costs; or

“(b) Bank charges or other minimal administration costs totalling not more than \$50 in the income year; or

“(c) Interest earned on any bank account during the income year, to the extent that the total interest does not exceed the total of any charges or costs incurred by the company to which paragraph (b) of this subsection applies.

“(4) A company with a standard balance date need not furnish an imputation return for any imputation year during which it is a non-active company.

“(5) A company with a non-standard balance date need not furnish an imputation return for any imputation year if it is a non-active company for both the income years in which the imputation year falls.

“(6) Where at any time any paragraph of subsection (2) ceases to apply to a company that has made a declaration under this section, the company must—

“(a) Inform the Commissioner that it has ceased to be a non-active company; and

“(b) Provide the Commissioner with a statement, in a form approved by the Commissioner, as to—

“(i) Whether or not the company had any loss available to be carried forward or set off against the income of the company or any other person, or any credit balance in its imputation credit account or dividend withholding payment account, at the start of the income year that began its period of non-activity; and

“(ii) Whether or not there has been any change of ownership in the company since that time, whether direct or indirect; and

“(iii) Whether or not the application of any of the continuity provisions would preclude the carrying forward, offsetting, or other utilisation of any loss or credit balance of the company referred to in subparagraph (i).

“(7) Notwithstanding subsections (1), (4), and (5), a non-active company shall furnish a return of income or an imputation return if required by the Commissioner to do so.”

**9. Officers to maintain secrecy**—(1) Section 81 (4) (f) (ii) of the principal Act is amended by adding, after the expression “section 83”, the expression “or section 84 or section 85”.

(2) Section 81 (4) is further amended by adding the following paragraph:

“(m) Publishing a product ruling issued under Part VA.”

**10. New Part inserted**—The principal Act is amended by inserting, after section 91, the following Part:

“PART VA

“BINDING RULINGS

“91A. **Purpose of this Part**—The purpose of this Part is to—

“(a) Provide taxpayers with certainty about the way the Commissioner will apply taxation laws; and

“(b) Help them to meet their obligations under those laws,—by enabling the Commissioner to issue rulings that will bind the Commissioner on the application of those laws. The Part also recognises the importance of collecting the taxes imposed by Parliament and the need for full and accurate disclosure by taxpayers who seek to obtain binding rulings.

“91B. **Interpretation**—In this Part—

“‘Discretion’, in relation to the exercise of the Commissioner’s discretion under a taxation law, includes—

“(a) The exercising of a power by the Commissioner:

“(b) The forming of an opinion by the Commissioner:

“(c) The attaining by the Commissioner of a state of mind:

“ ‘Taxation law’ means a provision specified in section 91c(1) in respect of which the Commissioner may make a binding ruling; and includes, in relation to any such provision that requires or authorises the Commissioner to exercise a discretion, the exercise of that discretion.

**“91c. Taxation laws in respect of which binding rulings may be made—**(1) The Commissioner may make a binding ruling on any provision of—

“(a) The Estate and Gift Duties Act 1968; or

“(b) The Gaming Duties Act 1971; or

“(c) The Goods and Services Tax Act 1985, except sections 12 and 13 of that Act; or

“(d) The Stamp and Cheque Duties Act 1971; or

“(e) The Income Tax Act 1994, except to the extent that the matter in question is or could be the subject of a determination of the Commissioner under—

“(i) Section 90 of this Act in relation to a financial arrangement; or

“(ii) Section 91 of this Act in relation to petroleum mining; or

“(iii) Section EF 1 (3) of the Income Tax Act 1994 in relation to accrual expenditure; or

“(iv) Any of sections EG 4, EG 10, EG 11, and EG 12 of the Income Tax Act 1994 in relation to depreciable property; or

“(v) Section EL 4 or section EL 9 (3) of the Income Tax Act 1994 in relation to specified livestock; or

“(f) Any Order in Council or regulation made under section 225 of this Act or under any of the Acts listed in paragraphs (a) to (e) of this subsection, except—

“(i) Any provision to the extent that it is or could be the subject of a determination referred to in paragraph (e); or

“(ii) Regulation 5 (1A) of the Income Tax (Withholding Payments) Regulations 1979 (which relates to exemption certificates for non-resident contractors), or any successor to that regulation.

“(2) The Commissioner may also make a binding ruling on how the Commissioner will exercise his or her discretion under a provision specified in subsection (1).

“(3) The Commissioner may not make a binding ruling on a provision that authorises or requires the Commissioner to—

- “(a) Impose or remit a penalty; or
- “(b) Inquire into the correctness of any return or other information supplied by any person; or
- “(c) Prosecute any person; or
- “(d) Recover any debt owing by any person.

*“Public Rulings*

“91D. **Commissioner may make public rulings**—The Commissioner may at any time make a public ruling on how a taxation law applies in relation to any type of person and any type of arrangement.

“91DA. **Content and notification of a public ruling**—(1) A public ruling must state—

- “(a) That it is a public ruling made under section 91D; and
- “(b) The particular taxation law or laws on which it is a ruling; and
- “(c) The arrangements to which the ruling applies; and
- “(d) The period for which the ruling applies.

Anything that does not contain these statements is not a public ruling.

“(2) The Commissioner shall notify the making of a public ruling by notice in the *Gazette*.

“(3) The notice shall indicate the subject of the public ruling and state where a copy of the ruling may be obtained.

“91DB. **Effect of a public ruling**—(1) Notwithstanding anything in any other Act, if—

- “(a) A public ruling on a taxation law applies to a person in relation to an arrangement; and
- “(b) The person applies the taxation law in the way stated in the ruling,—

the Commissioner must apply the taxation law in relation to the person and the arrangement in accordance with the ruling.

“(2) If 2 or more public rulings apply to a person in relation to an arrangement, the person may apply, and require the Commissioner to apply, any one of those rulings.

“91DC. **Application of a public ruling**—A public ruling on a taxation law applies in relation to a person and an arrangement—

- “(a) Only if the taxation law is expressly referred to in the ruling; and
- “(b) Only in respect of arrangements that—
  - “(i) Are specified in the ruling; and
  - “(ii) Are entered into during the period for which the ruling applies; and

“(c) Only for the period specified in the ruling.

“91DD. **Extension of a public ruling**—(1) The Commissioner may extend the period for which a public ruling applies by publishing a notice of extension in the *Gazette*.

“(2) A notice of extension must state—

“(a) That it is an extension of a public ruling under this section; and

“(b) The original period for which the ruling applied; and

“(c) The new period for which the ruling applies.

“91DE. **Withdrawal of a public ruling**—(1) The Commissioner may at any time withdraw a public ruling.

“(2) The Commissioner shall notify the withdrawal by—

“(a) Publishing a notice of withdrawal in the *Gazette*; and

“(b) Giving other adequate notice of the withdrawal by way of public announcement.

“(3) A public ruling is withdrawn on the date stated in the notice of withdrawal. That date may not be sooner than the earlier of—

“(a) The date the notice is published in the *Gazette*; or

“(b) The date on which other adequate notice of the withdrawal is given by way of public announcement.

“(4) If the Commissioner withdraws a public ruling—

“(a) The ruling does not apply to an arrangement entered into after the date of withdrawal; but

“(b) The ruling continues to apply, for the remainder of the period specified in the ruling, to any arrangement to which it previously applied that was entered into before the date of withdrawal.

“(5) A notice of withdrawal must specify—

“(a) That it is a withdrawal of a public ruling under this section; and

“(b) The ruling that is being withdrawn; and

“(c) The original period for which the ruling applied; and

“(d) The date of the withdrawal.

Anything that does not contain these statements is not a notice of withdrawal of a public ruling.

#### “Private Rulings

“91E. **Commissioner to make private rulings on request**—(1) Subject to this section and to section 91EF, the Commissioner must make a private ruling on how any taxation law applies to a particular person and a particular arrangement if the person applies for the ruling.

“(2) The Commissioner may make a private ruling on how a taxation law applies to the arrangement described in an application whether or not reference was made to that taxation law in the application.

“(3) The Commissioner may decline to make a private ruling if—

“(a) The Commissioner considers that the correctness of the ruling would depend on which assumptions were made about a future event or other matter; or

“(b) The matter on which the ruling is sought is subject to an objection or appeal, whether in relation to the applicant or any other person.

“(4) The Commissioner may not make a private ruling if—

“(a) The application for the ruling would require the Commissioner to determine questions of fact; or

“(b) In the Commissioner’s opinion the arrangement in relation to which the application is made is not seriously contemplated by the applicant; or

“(c) The application is frivolous or vexatious; or

“(d) The matter on which the ruling is sought—

“(i) Concerns a tax, duty, or levy that is due and payable, unless the application is received by the Commissioner before the tax, duty, or levy is due and payable; or

“(ii) Is being dealt with, or in the Commissioner’s opinion should be dealt with, under a double taxation agreement procedure that allows the competent authorities of the parties to the double taxation agreement to agree on the application of any provision of that agreement; or

“(e) A private ruling already exists on how the relevant taxation law applies to the person and the arrangement, and the proposed ruling would apply to any period to which the existing ruling applies; or

“(f) The Commissioner has made an assessment in relation to the person, the arrangement, and any period to which the proposed ruling would apply, unless the application is received by the Commissioner before the date of the notice of assessment; or

“(g) The Commissioner is undertaking an audit on how the taxation law applies to the person and the arrangement for any period to which the proposed ruling would apply; or

“(h) In the Commissioner’s opinion the applicant has not provided sufficient information in relation to the

application after the Commissioner has requested further information; or

“(i) In the Commissioner’s opinion it would be unreasonable to make a ruling in view of the resources available to the Commissioner.

“(5) The Commissioner may not, before 1 April 1996 or such other date as may be specified by the Governor-General by Order in Council for the purposes of this subsection, make a private ruling on an arrangement if that arrangement was entered into before the date on which the Commissioner received the application for the ruling.

“(6) In this section, ‘assessment’ means an assessment made under—

“(a) Section 82 of the Estate and Gift Duties Act 1968; or

“(b) Section 12G of the Gaming Duties Act 1971; or

“(c) Section 54 of the Stamp and Cheque Duties Act 1971; or

“(d) Section 27 of the Goods and Services Tax Act 1985; or

“(e) Any provision of the Income Tax Act 1994 under which an assessment may be made; or

“(f) Any provision of this Act under which an assessment can be made.

“91EA. **Effect of a private ruling**—(1) Notwithstanding anything in any other Act, if—

“(a) A private ruling on a taxation law applies to a person in relation to an arrangement; and

“(b) The person applies the taxation law in the way stated in the ruling,—

the Commissioner must apply the taxation law in relation to the person and the arrangement in accordance with the ruling.

“(2) If 2 or more private rulings apply to a person in relation to an arrangement, the person may apply, and require the Commissioner to apply, any one of those rulings.

“91EB. **Application of a private ruling**—(1) A private ruling on a taxation law applies to a person in relation to an arrangement—

“(a) Only if the taxation law is expressly referred to in the ruling; and

“(b) Only for the period specified in the ruling.

“(2) A private ruling does not apply to a person in relation to an arrangement if—

“(a) The arrangement is materially different from the arrangement identified in the ruling; or

“(b) There was a material omission or misrepresentation in, or in connection with, the application for the ruling; or

“(c) Any assumption of the Commissioner about future events or other matters that is stated in the ruling is incorrect.

“91EC. **Applying for a private ruling**—(1) Any person may apply to the Commissioner for a private ruling on the way in which a taxation law applies to the person and to any particular arrangement.

“(2) Any 2 or more persons may jointly apply to the Commissioner for a private ruling on the way in which a taxation law applies in relation to each person and to a particular arrangement.

“(3) An application for a private ruling—

“(a) Must be made in the form prescribed by the Commissioner; and

“(b) Must comply with the disclosure requirements of section 91ED.

“(4) An applicant for a private ruling may at any time withdraw the application by notice in writing to the Commissioner.

“(5) The withdrawal of an application by a joint applicant for a private ruling shall not be treated as withdrawing the application of the other party or parties to the application unless the Commissioner considers that the withdrawal—

“(a) Materially affects the arrangement identified in the application; or

“(b) Results in insufficient information in relation to the application being provided to the Commissioner.

“91ED. **Disclosure requirements**—(1) An application for a private ruling must—

“(a) Identify the applicant; and

“(b) Disclose all relevant facts and documents relating to the arrangement for which the ruling is sought; and

“(c) State the taxation laws in respect of which the ruling is sought; and

“(d) State the propositions of law (if any) which are relevant to the issues raised in the application; and

“(e) Provide a draft ruling.

“(2) If the Commissioner considers that it would be unreasonable to require the applicant to comply with any of the requirements in paragraphs (c) to (e) of subsection (1), the Commissioner may waive those requirements.

**“91EE. Commissioner may request further information—**The Commissioner may at any time request further relevant information from an applicant for a private ruling.

**“91EF. Assumptions in making a private ruling—**(1) If the Commissioner considers that the correctness of a private ruling would depend on assumptions being made about a future event or other matter, the Commissioner may—

“(a) Make the assumptions that the Commissioner considers to be most appropriate; or

“(b) Decline to make the ruling.

“(2) The Commissioner may not make assumptions about information which the applicant can provide.

**“91EG. Right to consultation—**Before the Commissioner makes a private ruling, the Commissioner must give the applicant a reasonable opportunity to be consulted if the content of the proposed ruling differs from that requested by the applicant.

**“91EH. Content and notification of a private ruling—**(1) A private ruling must state—

“(a) That it is a private ruling made under section 91E; and

“(b) The identity of the person, the taxation law, and the arrangement (which may be identified by reference to the arrangement identified in the application) to which the ruling applies; and

“(c) The period for which the ruling applies; and

“(d) Any material assumptions about future events or other matters made by the Commissioner.

Anything that does not contain these statements is not a private ruling.

“(2) The Commissioner shall notify the making of a private ruling by sending a copy of the ruling to the person or persons who applied for it.

**“91EI. Withdrawal of a private ruling—**(1) The Commissioner may at any time withdraw a private ruling by notifying the person to whom the ruling applies in writing that the ruling has been withdrawn.

“(2) The private ruling is withdrawn from the date specified in the notice of withdrawal. That date may not be earlier than the date on which the person could reasonably be expected to receive the notice of withdrawal.

“(3) If the Commissioner withdraws a private ruling—

“(a) The ruling does not apply if the arrangement was entered into after the date of withdrawal; but

“(b) The ruling continues to apply, for the remainder of the period specified in the ruling, if the arrangement was entered into before the date of withdrawal.

“91EJ. **Disclosure of private ruling**—Where—

“(a) A person has obtained a private ruling; and

“(b) The person is required to provide a return; and

“(c) In preparing the return the person is required to take into account the way in which a taxation law applies to the arrangement identified in the ruling,—

the person must disclose in the manner prescribed by the Commissioner—

“(d) The existence of the private ruling; and

“(e) Whether or not the person relied on the ruling in preparing and providing the return; and

“(f) Any material changes to the arrangement identified in the ruling.

#### “*Product Rulings*

“91F. **Commissioner may make product rulings**—

(1) The Commissioner may make a product ruling on how any taxation law applies to a particular arrangement if—

“(a) The Commissioner receives an application for a product ruling on the arrangement; and

“(b) The Commissioner is satisfied that a private ruling cannot be made because it is not practicable to identify the taxpayers who may enter into the arrangement; and

“(c) The characteristics of the taxpayers who may enter into the arrangement would not affect the content of the ruling.

“(2) The Commissioner may make a product ruling on how a taxation law applies to the arrangement described in an application whether or not reference was made to that taxation law in the application.

“(3) The Commissioner may decline to make a product ruling if—

“(a) The Commissioner considers that the correctness of the ruling would depend on which assumptions were made about a future event or other matter; or

“(b) The matter on which the ruling is sought is subject to an objection or appeal, whether in relation to the applicant or any other person.

“(4) The Commissioner may not make a product ruling if—

- “(a) The application for the ruling would require the Commissioner to determine questions of fact; or
- “(b) In the Commissioner’s opinion the arrangement in relation to which the application is made is not seriously contemplated by the applicant; or
- “(c) The application is frivolous or vexatious; or
- “(d) The matter on which the ruling is sought is being dealt with, or in the Commissioner’s opinion should be dealt with, under a double taxation agreement procedure that allows the competent authorities of the parties to the double taxation agreement to agree on the application of any provision of that agreement; or
- “(e) A product ruling already exists on how the relevant taxation law applies to the arrangement, and the proposed ruling would apply to any period to which the existing ruling applies; or
- “(f) In the Commissioner’s opinion the applicant has not provided sufficient information in relation to the application after the Commissioner has requested further information; or
- “(g) In the Commissioner’s opinion it would be unreasonable to make a ruling in view of the resources available to the Commissioner.

“91FA. **Effect of a product ruling**—(1) Notwithstanding anything in any other Act, if—

“(a) A product ruling on a taxation law applies to an arrangement; and

“(b) A person who enters into the arrangement applies the taxation law in the way stated in the ruling,—  
the Commissioner must apply the taxation law in relation to the arrangement in accordance with the ruling.

“(2) If 2 or more product rulings apply to an arrangement, a person may apply, and require the Commissioner to apply, any one of those rulings.

“91FB. **Application of a product ruling**—(1) A product ruling on a taxation law applies to an arrangement—

“(a) Only if the taxation law is expressly referred to in the ruling; and

“(b) Only for the period specified in the ruling.

“(2) A product ruling does not apply to an arrangement if—

“(a) The arrangement is materially different from the arrangement identified in the ruling; or

“(b) There was a material omission or misrepresentation in, or in connection with, the application for the ruling; or

“(c) Any assumption of the Commissioner about future events or other matters that is stated in the ruling is incorrect.

“**91FC. Applying for a product ruling**—(1) Any person may apply to the Commissioner for a product ruling on the way in which a taxation law applies to a particular type of arrangement.

“(2) An application for a product ruling—

“(a) Must be made in the form prescribed by the Commissioner; and

“(b) Must comply with the disclosure requirements of section 91FD.

“(3) An applicant for a product ruling may at any time withdraw the application by notice in writing to the Commissioner.

“**91FD. Disclosure requirements**—(1) An application for a product ruling must—

“(a) Identify the applicant; and

“(b) Disclose all relevant facts and documents relating to the arrangement for which the ruling is sought; and

“(c) Explain—

“(i) Why it is not practicable to seek a private ruling; and

“(ii) Why the characteristics of the taxpayers who may enter into the arrangement are not relevant to the content of the ruling; and

“(d) State the taxation laws in respect of which the ruling is sought; and

“(e) State the propositions of law (if any) which are relevant to the issues raised in the application; and

“(f) Provide a draft ruling.

“(2) If the Commissioner considers that it would be unreasonable to require the applicant to comply with any of the requirements in paragraphs (d) to (f) of subsection (1), the Commissioner may waive those requirements.

“**91FE. Commissioner may request further information**—The Commissioner may at any time request further relevant information from an applicant for a product ruling.

“**91FF. Assumptions in making a product ruling**—(1) If the Commissioner considers that the correctness of a product

ruling would depend on assumptions being made about a future event or other matter, the Commissioner may—

“(a) Make the assumptions that the Commissioner considers to be most appropriate; or

“(b) Decline to make the ruling.

“(2) The Commissioner may not make assumptions about information which the applicant can provide.

“91FG. **Right to consultation**—Before the Commissioner makes a product ruling, the Commissioner must give the applicant a reasonable opportunity to be consulted if the content of the proposed ruling differs from that requested by the applicant.

“91FH. **Content and notification of a product ruling**—

(1) A product ruling must state—

“(a) That it is a product ruling made under section 91F; and

“(b) The taxation law and the arrangement to which the ruling applies; and

“(c) The period for which the ruling applies; and

“(d) Any material assumptions about future events or other matters made by the Commissioner.

Anything that does not contain these statements is not a product ruling.

“(2) The Commissioner shall notify the making of a product ruling by notice in the *Gazette*.

“(3) The notice shall indicate the subject of the product ruling and state where a copy of the ruling may be obtained.

“(4) The Commissioner shall also notify the making of a product ruling by sending a copy of the ruling to the person or persons who applied for it.

“91FI. **Extension of a product ruling**—(1) The Commissioner may extend the period for which a product ruling applies by publishing a notice of extension in the *Gazette*.

“(2) A notice of extension shall state—

“(a) That it is an extension of a product ruling under this section; and

“(b) The original period for which the ruling applied; and

“(c) The new period for which the ruling applies.

“(3) The Commissioner shall also notify the extension in writing to the person who applied for the ruling.

“91FJ. **Withdrawal of a product ruling**—(1) The Commissioner may at any time withdraw a product ruling.

“(2) The Commissioner shall notify the withdrawal by—

“(a) Publishing a notice of withdrawal in the *Gazette*; and

“(b) Giving other adequate notice of the withdrawal by way of public announcement.

“(3) A product ruling is withdrawn on the date stated in the notice of withdrawal. That date may not be sooner than the earlier of—

“(a) The date the notice is published in the *Gazette*; or

“(b) The date on which other adequate notice of the withdrawal is given by way of public announcement.

“(4) If the Commissioner withdraws a product ruling—

“(a) The ruling does not apply to an arrangement entered into after the date of withdrawal; but

“(b) The ruling continues to apply, for the remainder of the period specified in the ruling, to any arrangement to which it previously applied that was entered into before the date of withdrawal.

“(5) A notice of withdrawal must specify—

“(a) That it is a withdrawal of a product ruling under this section; and

“(b) The ruling that is being withdrawn; and

“(c) The original period for which the ruling applied; and

“(d) The date of the withdrawal.

Anything that does not contain these statements is not a notice of withdrawal of a product ruling.

“(6) The Commissioner shall also notify the withdrawal in writing to the person who applied for the product ruling.

#### “*Rulings Generally*”

“91C. **Effect on binding rulings of change in legislation**—(1) If any taxation law that is the subject of or affects a binding ruling is repealed, the ruling ceases to apply to the extent of, and from the effective date of, that repeal.

“(2) If any taxation law that is the subject of a binding ruling is amended, or repealed in part only, in a manner that alters the way in which the taxation law applies, the ruling ceases to apply to the extent of, and from the effective date of, the amendment or partial repeal.

“91H. **Applications for rulings not to affect obligations and powers**—The fact that there has been an application for a private ruling or a product ruling does not affect a person’s obligation to provide any return, make any payment, or do any other act, or the Commissioner’s power to make or amend any assessment.

“91i. **Regulations**—(1) The Governor-General may from time to time, by Order in Council, make regulations prescribing or providing for the fixing of fees payable in respect of applications for private rulings and product rulings.

“(2) Any such regulations may—

“(a) Specify the persons by whom any fees are payable:

“(b) Prescribe specific fees for specific work or services:

“(c) Prescribe a scale of fees or a rate based on the time involved in carrying out the work or services.”

**11. Interest to be charged where residual income tax exceeds provisional tax**—(1) Section 121 (7) of the principal Act is amended by inserting in both paragraph (a) and paragraph (b), in each case after the words “1st of the month”, the words “preceding that”.

(2) Section 121 of the principal Act is amended by inserting, at the beginning of subsection (9), the words “Subject to subsection (9A),”.

(3) Section 121 of the principal Act is further amended by inserting, after subsection (9), the following subsections:

“(9A) Where the Commissioner makes any reassessment of income tax payable by a taxpayer in respect of an income year, and the interest payable under this section is, by reason of that reassessment, increased or reduced from the amount payable under the most recent assessment or reassessment for that year, then, unless there is a request under subsection (9c),—

“(a) Subsection (9) (a) shall continue to apply in respect of the amount of interest calculated in respect of the income tax originally assessed as if that amount were the amount of interest payable under this section; and

“(b) Where the interest payable is increased by reason of the reassessment, the amount of the increase shall be deemed for the purposes of the Income Tax Act 1994 to be interest incurred in the income year following that in which the Commissioner issues the notice of reassessment; and

“(c) Where the interest payable is reduced by reason of the reassessment, the amount of the reduction shall be included in the taxpayer’s assessable income for the income year following that in which the Commissioner issues the notice of reassessment.

“(9B) Where 2 or more assessments or reassessments of the tax payable for a particular income year are made by the Commissioner during a single income year, only the last

assessment or reassessment made during the income year shall be taken into account for the purposes of subsection (9A).

“(9c) Where—

“(a) The application of subsection (9A) (b) would result in a deduction in respect of additional interest incurred by a taxpayer falling within a particular income year; and

“(b) The deduction would be unable to be set off against assessable income of the taxpayer in that income year by reason of the taxpayer having died, been liquidated, or otherwise having ceased to exist before that income year,—

subsection (9A) shall not apply in relation to the taxpayer if the taxpayer’s executor or other representative so requests the Commissioner.”

(4) Section 121 (12) of the principal Act is amended by repealing the definition of “income tax payable”, and substituting the following definition:

“‘Income tax payable’, in relation to a person and an income year, means the person’s residual income tax for that year, as—

“(a) Increased by any amount calculated in relation to the person and the income year under section KD 4 (2)(c) of the Income Tax Act 1994; or

“(b) Reduced by any amount calculated in relation to the person and the income year under section KD 4 (2)(d) of the Income Tax Act 1994.”

**12. Interest on tax overpaid**—(1) Section 122 of the principal Act is amended by inserting, after subsection (7), the following subsections:

“(7A) Where the Commissioner makes any reassessment of income tax payable by a person in respect of an income year, and the interest payable under this section is, by reason of that reassessment, reduced from the amount payable under the most recent assessment or reassessment for that year, then, unless there is a request under subsection (7c),—

“(a) Subsection (7) (b) shall continue to apply in respect of the amount of interest calculated in relation to the income tax originally assessed as if that amount were the amount of interest payable to the person under this section; and

“(b) The amount of the reduction shall be allowed as a deduction from the person’s assessable income for

the income year following that in which the Commissioner issues the notice of reassessment.

“(7B) Where 2 or more assessments or reassessments of the tax payable for a particular income year are made by the Commissioner during a single income year, only the last assessment or reassessment made during the income year shall be taken into account for the purposes of subsection (7A).

“(7c) Where—

“(a) The application of subsection (7A) (b) would result in a deduction in respect of additional interest incurred by a taxpayer falling within a particular income year; and

“(b) The deduction would be unable to be set off against assessable income of the taxpayer in that income year by reason of the taxpayer having died, been liquidated, or otherwise having ceased to exist before that income year,—

subsection (7A) shall not apply in relation to the taxpayer if the taxpayer’s executor or other representative so requests the Commissioner.”

(2) Section 122 (10) of the principal Act is amended by repealing the definition of “residual income tax”, and substituting the following definition:

“‘Residual income tax’, in relation to a person and an income year, means the person’s residual income tax for that year within the meaning of section OB 1 of the Income Tax Act 1994, as—

“(a) Increased by any amount calculated in relation to the person and the income year under section KD 4 (2)(c) of that Act; or

“(b) Reduced by any amount calculated in relation to the person and the income year under section KD 4 (2)(d) of the Income Tax Act 1994.”.

### **13. Certain rights of objection not conferred—**

Section 125 of the principal Act is amended by repealing paragraph (e), and substituting the following paragraph:

“(e) Any determination of the Commissioner, for the purposes of section 130 of this Act and section 73 of the Income Tax Act 1976, as to whether and to what extent any allowance (being an allowance paid before 1 April 1995) in respect of or in relation to the employment or service of any person constituted a reimbursement of expenditure incurred by that person in gaining or producing that person’s assessable income; or”.

**14. Objections to allowance determinations**—(1) Section 130 (1) of the principal Act is amended—

- (a) By omitting the words “is granted or is to be granted”, and substituting the words “, before 1 April 1995, was granted or was to be granted”:
- (b) By omitting the words “subsection (1) or subsection (2) of section CB 12 of the Income Tax Act 1994”, and substituting the words “subsection (2) or subsection (3) of section 73 of the Income Tax Act 1976”.

(2) Section 130 (2) of the principal Act is amended—

- (a) By inserting, after the words “payment of an allowance”, the words “, being an allowance paid or payable before 1 April 1995,”:
- (b) By omitting the words “subsection (1) or subsection (2) or subsection (3) of section CB 12 of the Income Tax Act 1994”, and substituting the words “subsection (2) or subsection (3) or subsection (4) of section 73 of the Income Tax Act 1976”:
- (c) By omitting the words “is granted or is”, and substituting the words “was granted or was”.

**15. Remission of additional tax imposed on underestimation**—Section 178 (3) of the principal Act is amended by omitting the word “private”, and substituting the word “close”.

**16. Correction of error in offence provision**—Section 200 of the principal Act is amended by omitting the expression “section 220”, and substituting the expression “section 17”.

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This Act is administered in the Inland Revenue Department.

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