

[Clauses 13 to 17 and 47 of, and the Schedules to, this bill, were formerly clauses 13 to 17 and 47 of, and the Schedules to, the Taxation Reform Bill (No. 5) (173-1).

[Pursuant to power granted to it by the House, the Finance and Expenditure Committee has divided the Taxation Reform Bill (No. 5) (173-1) into 2 bills; the Taxation Reform Bill (No. 5) (173-2), which was reported to the House on 24 November 1992, and the Income Tax Amendment Bill (No. 11).]

[AS REPORTED FROM THE FINANCE AND EXPENDITURE COMMITTEE]

*House of Representatives, 25 March 1993.*

Words struck out are shown in italics within bold round brackets, or with black rule at beginning and after last line; words inserted are shown in roman underlined with a single rule, or with single rule before first line and after last line.

*Hon. Wyatt Creech*

## INCOME TAX AMENDMENT (NO. 11)

### ANALYSIS

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## A BILL INTITULED

**An Act to amend the Income Tax Act 1976**

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

**1. Short Title and application**—(1) This Act may be cited as the Income Tax Amendment Act (No. 11) 1993, and shall be read together with and deemed part of the Income Tax Act 1976\* (hereinafter referred to as the principal Act). 5

(2) Except as provided in subsections (3) to (5) of section 13 and in sections 13C (3), 14A (2), 15 (2), 15E (2), 15F (2), 15H (2), 15I (2), and 15J (3) of this Act, this Act shall apply with respect to the tax on income derived in the 1993–94 income year and subsequent years. 10

\*R.S. Vol. 12, p. 1

Amendments: 1988, No. 4; 1983, No. 139; 1984, No. 10; 1985, No. 59; 1985, No. 125; 1986, No. 3; 1986, No. 7; 1986, No. 41; 1986, No. 117; 1987, No. 66; 1987, No. 104; 1987, No. 190; 1988, No. 6; 1988, No. 14; 1988, No. 133; 1988, No. 225; 1989, No. 7; 1989, No. 13, Part II; 1989, No. 49; 1989, No. 150; 1990, No. 24; 1990, No. 63; 1990, No. 91; 1991, No. 10; 1991, No. 14; 1991, No. 47; 1991, No. 75; 1991, No. 85; 1991, No. 125; 1992, No. 1; 1992, No. 14; 1992, No. 39; 1992, No. 98; 1992, No. 115

[Clauses 2 to 12 of the Taxation Reform Bill (No. 5) (173-1), as introduced, are now clauses 2 to 12 of the Taxation Reform Bill (No. 5) (173-2).]

*New*

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PART I  
NEW DEPRECIATION REGIME

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

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

*Struck Out*

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“‘Adjusted tax value’ means, in relation to any depreciable property of a taxpayer (and subject to section 108F of this Act in the case of property in a pool),—

20

“(a) In the case of any depreciable property other than an item of property referred to in paragraph (b) of this definition, the cost of that property to that taxpayer (excluding any expenditure of the taxpayer which is allowed as a deduction under any provision of this Act other than sections 108 to 108I and section 113A), reduced by the aggregate amount of—

25

“(i) Any deductions on account of depreciation which would have been deductible in calculating the assessable income of that taxpayer in accordance with this Act if, at all times since the date of acquisition of the property, the property was used by the taxpayer wholly in gaining or producing assessable income of the taxpayer; and

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“(ii) Any amount required by section 117 (8) (a) of this Act to be deducted from the adjusted tax value of the property:

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“(b) In the case of any item of depreciable property that—

*Struck Out*

- “(i) Was held by the taxpayer at the end of the 1992-93 income year; and
- “(ii) Was permitted by the Commissioner to be accounted for using any of the standard value, replacement value, annual revaluation, and global accounting methods,—
- the amount at which the property was recorded at the end of that income year in accordance with the relevant one of those methods, reduced by the aggregate amount of—
- “(iii) Any deductions on account of depreciation that would have been deductible in calculating the assessable income of the taxpayer in accordance with this Act if, at all times since the end of the 1992-93 income year, the property was used by the taxpayer wholly in gaining or producing assessable income of the taxpayer; and
- “(iv) Any amount required by **section 117 (8) (a)** of this Act to be deducted from the adjusted tax value of the property:

*New*

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

base value — aggregate deductions

where—

“‘Base value’ is—

*New*

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

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

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

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

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

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

*New*

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

5

“ ‘Aggregate deductions’ is the aggregate amount of—

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

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

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

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

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

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*New*

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

*Struck Out*

10 “ ‘Annual depreciation rate’, in relation to any depreciable property of a taxpayer, is the rate set for—  
 “(a) That class of property under **section 108c** or **section 108d** of this Act; or  
 “(b) That item or class of property and that taxpayer under **section 108e** of this Act:

*New*

15 “ ‘Annual depreciation rate’, or ‘annual rate’, in relation to any depreciable property of a taxpayer, is the rate applying in respect of that property and that taxpayer pursuant to—  
 20 “(a) **Section 108cc** of this Act, in the case of fixed life intangible property (not being excluded depreciable property):  
 “(b) **Section 108d** of this Act, in the case of excluded depreciable property:  
 25 “(c) **Section 108ca** of this Act, in the case of other depreciable property acquired before the end of the taxpayer’s 1994–95 income year:  
 “(d) **Section 108cb** of this Act, in the case of other depreciable property acquired in the taxpayer’s 1995–96 income year or any subsequent year:  
 30 “ ‘Basic economic depreciation rate’, or ‘economic rate’, in respect of any item of depreciable property other than fixed life intangible property or excluded depreciable property, means the basic economic depreciation rate of that property within the meaning of **section 108c** or, where appropriate, **section 108e** of  
 35 this Act:

“ ‘Depreciable property’ in relation to any taxpayer,—

“(a) Means any property of that taxpayer which might reasonably be expected in normal circumstances to decline in value while used or available for use by persons—

5

“(i) In gaining or producing assessable income; or

“(ii) In carrying on a business for the purpose of gaining or producing assessable income; but

10

“(b) Does not include—

“(i) Trading stock (as defined in section 85 (1) of this Act) of the taxpayer:

*Struck Out*

“(ii) Land, excluding buildings:

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*New*

“(ii) Land (excluding buildings and other fixtures and such improvements as are listed in the **Twenty-first Schedule** to this Act):

“(iii) Financial arrangements, as defined in section 64B of this Act:

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*Struck Out*

“(iv) Goodwill:

“(v) Intangible property:

“(vi) Property the cost of which is deductible under any of sections 128A, 128B, 128C, and 144 of this Act, or by virtue of an amortisation or other similar deduction available under any section of this Act (such as sections 127, 131, 134 to 139, and 214F) other than **sections 108 to 108I** and section 113A; or

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*New*

- 5 “(v) Intangible property other than intangible property which is of a type listed in the **Twenty-second Schedule** to this Act, which Schedule describes intangible property that has—
- 10 “(A) A finite useful life that can be estimated with a reasonable degree of certainty on the date of its creation or acquisition; and
- 15 “(B) If made depreciable, a low risk of being used in tax avoidance schemes:
- 20 “(vi) Property the cost of which is deductible under any of sections 104, 108J, 127, 131, 134 to 139, 142, 143, and 214F of this Act, or by virtue of an amortisation or other similar deduction available under any section of this Act (such as sections 128A, 128B, 128C, 144, and 222E) other than **sections 108 to 108I** and section 113A; or
- 25 “(vii) Property which will not, in respect of the taxpayer, decline in value as a result of any right of the taxpayer to receive compensation for any such decline in value on disposition of such property:
- 30 “ ‘Diminishing value method’ means the method of calculation of a depreciation deduction where in each year a constant percentage of the adjusted tax value of the depreciable property is deducted from the property’s adjusted tax value:
- 35 “ ‘Estimated residual market value’ means, in respect of any depreciable property, its market value at the end of its estimated useful life, estimated reasonably as at the date of acquisition and based upon an assumption of normal and reasonable maintenance of that property over its estimated useful life:
- 40 “ ‘Estimated useful life’ means, in respect of any depreciable property, the period over which such property might reasonably be expected to be useful in gaining or producing assessable income or in carrying on a business in New Zealand, having regard to such factors as likely wear and tear, the passage of

time, exhaustion, and obsolescence and based upon an assumption of normal and reasonable maintenance:

*Struck Out*

- “ ‘Excluded depreciable property’ means, in respect of any taxpayer, any depreciable property— 5
- “(a) That was used or was available to be used for any purpose whatever within New Zealand, whether by the taxpayer or any other person, before the 1st day of April 1993; or 10
- “(b) For which a binding contract for its purchase or construction was entered into before the 16th day of December 1991, whether by the taxpayer or any other person; or
- “(c) That is or has been in respect of any person (whether or not the taxpayer) a qualifying asset within the meaning of **section 108(1)** of this Act: 15
- “(d) To the extent that the property is or has been in respect of any person (whether or not the taxpayer) a qualifying improvement within the meaning of **section 108(1)** of this Act;— 20
- but does not include any item of property in existence at the end of the 1992–93 income year that was permitted by the Commissioner to be accounted for in that income year using any of the standard value, replacement value, or annual revaluation methods: 25

*New*

- “ ‘Excluded depreciable property’ means, in respect of any taxpayer, any depreciable property— 30
- “(a) That was used or was available to be used by the taxpayer for any purpose whatever within New Zealand, other than as trading stock, before the 1st day of April 1993; or
- “(b) For which a binding contract for its purchase or construction was entered into by the taxpayer before the 16th day of December 1991; or 35

*New*

“(c) That is or has been in respect of the taxpayer a qualifying asset within the meaning of **section 108I (1)** of this Act; or

5 “(d) To the extent that the property is or has been in respect of the taxpayer a qualifying improvement within the meaning of **section 108I** of this Act; or

10 “(e) That is an intangible asset that was used or was available for use by the taxpayer before the 1st day of April 1993;—

but does not include any item of property in existence at the end of the 1992-93 income year that was permitted by the Commissioner to be accounted for in that income year using any of the standard value, replacement value, or annual revaluation methods:

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

20 “(a) Is depreciable property; and

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

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

30  
35 “‘Maximum pooling value’ means, in respect of any item of depreciable property of a taxpayer, the greater of—

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

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

“ ‘Pool’ means any group of items of depreciable property that a taxpayer elects under **section 108B** of this Act to depreciate as a pool using the pool depreciation method (*in accordance with **sections 108A (2) and 108F** of this Act*):

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

*Struck Out*

“ ‘Pool depreciation period’, in respect of any pool of a taxpayer in any income year, means a period which—

10

“ (a) Commences on the later of—

“ (i) The next day after the immediately preceding pool depreciation period of that pool concluded; and

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“ (ii) The day on which that taxpayer first establishes that pool; and

“ (b) Subject to **section 108F (5) (b)** of this Act, ends on—

20

“ (i) Where the commencement date referred to in **paragraph (a)** of this definition was within the 6-month period that starts with the commencement of the taxpayer’s income year, the earlier of the expiry of that 6-month period and the day that the taxpayer ceases business; and

25

“ (ii) In any other case, the earlier of the last day of the taxpayer’s income year and the day that the taxpayer ceases business:

30

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

“ (a) ~~(Is property that)~~ Was—

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

35

“ (ii) Previously accounted for separately but has as at the beginning of the income year an adjusted tax value per item equal to or less than the maximum pooling value; or

40

“ (iii) Permitted by the Commissioner to be accounted for at the end of the 1992–93

income year using the globo accounting method; and

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

*Struck Out*

10 “(c) Is an item for which the diminishing value method of depreciation is available under **section 108b** or **section 108d** of this Act or by way of a determination issued by the Commissioner:

*New*

15 “(c) Is not a building:  
“ ‘Schedule depreciable property’ means any depreciable property that is—  
    “(a) A petroleum drilling rig; or  
20      “(b) A support vessel for an offshore petroleum drilling rig; or  
    “(c) A support vessel for an offshore petroleum production platform:  
“ ‘Software’ means the copyright in software, the right to use the copyright in software, or the right to use  
25 software:

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

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

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

during that income year shall be deducted from the (*assessable*) total income of the taxpayer in that income year.

*New*

“(1A) No depreciation deduction shall be made in respect of any property for the income year in which the property is sold or otherwise disposed of, except in the case of property that is— 5

“(a) A building; or

“(b) Schedule depreciable property.

“(2) This section shall apply notwithstanding section 106 (1) (a) of this Act. 10

“108A. **Formula for calculating depreciation deduction**—(1) Subject to this Act and to subsection (2) of this section, the deduction on account of depreciation under section 108 of this Act for any depreciable property of a taxpayer in any income year shall be the smallest of the following amounts: 15

“(a) In the case of property that is not schedule depreciable property, an amount calculated in accordance with the following formula: 20

$$a \times b \times \frac{c}{12} \quad 20$$

where—

“a is the annual depreciation rate (expressed as a decimal) applicable in that income year to such property and to the depreciation method used by the taxpayer in respect of the property; and 25

“b is—

“(i) In any case where the diminishing value method is being used, the adjusted tax value of the property at the end of the income year before any deduction for depreciation in that income year has been made; and 30

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

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

*New*

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

$$15 \qquad a \times b \times \frac{c}{365}$$

where—

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

“b is—

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

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

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

40 “(b) The adjusted tax value of the property at the end of the income year immediately before the deduction of

any amount on account of depreciation for that income year:

“(c) Where the property is a motor vehicle to which section 106B (3) of this Act applies, an amount calculated in accordance with the following formula: 5

$$d \times e$$

where—

“d is the amount of the deduction calculated in accordance with **paragraph (a)** of this section in respect of the motor vehicle; and 10

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

“(d) Where— 15

“(i) The property is, at any time in the income year, used by the taxpayer other than wholly for the purposes of deriving assessable income or in carrying on a business for the purpose of deriving assessable income; and 20

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

“(iii) The property is not a motor vehicle to which section 106B (3) of this Act applies,— an amount calculated in accordance with the following formula: 25

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

where—

“d is the amount of the deduction calculated under **paragraph (a)** of this section in respect of the property; and 30



*Struck Out*

5 “f is the number of days or other appropriate  
units of measurement (whether relating to  
time, distance, or otherwise) in the income  
year (or in such lesser period as that property  
was held by the taxpayer in that income  
year) for which the property was used to  
produce assessable income or in carrying on  
10 a business for the purpose of producing  
assessable income, or in respect of which  
fringe benefit tax was payable; and

*New*

15 “f is the number of days or other appropriate  
units of measurement (whether relating to  
time, distance, or otherwise) in the income  
year (or in such lesser period as that property  
was owned by the taxpayer in that income  
year), being days or other appropriate units  
of measurement for which—  
20 “(i) The property was physically used or  
operated to produce assessable income or in  
carrying on a business for the purpose of  
producing assessable income; or  
25 “(ii) Fringe benefit tax was payable in  
respect of the use of the property; or  
“(iii) The property was not physically used  
or operated for any purpose whatever but  
was available for the purpose set out in  
subparagraph (i) of this item; and

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

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

- “(a) In calculating the assessable income of the taxpayer for that income year the amount on account of depreciation to be deducted under **section 108** of this Act in respect of all such property within a pool shall be equal to the aggregate of all deductions calculated in accordance with **section 108F** of this Act in respect of *(each pool depreciation period of that pool that ends during the income year or at the end of the income year)* that income year; and 5
- “(b) **Subsection (1)** of this section shall not apply in respect of any such property. 10

“108B. **Depreciation method**— 15

*Struck Out*

(1) In calculating for any income year the depreciation deduction in respect of any item of depreciable property, a taxpayer may elect to use in respect of that item of property— 20

- “(a) The straight line method; or
- “(b) Where an equivalent diminishing value rate applicable to that item of depreciable property is provided in the **Twenty-First Schedule** or the **Twenty-Second Schedule** to this Act, the diminishing value method; or 25
- “(c) Where the property is poolable property, the pool depreciation method.

*New*

(1) In calculating for any income year the depreciation deduction in respect of any depreciable property other than fixed life intangible property, a taxpayer may elect to use— 30

- “(a) The diminishing value method; or
- “(b) The straight line method; or
- “(c) Where the property is poolable property, the pool depreciation method. 35

## New

“(1A) In calculating for any income year the depreciation deduction for any item of fixed life intangible property, a taxpayer shall use only the straight line method.

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

10 “(3) An election made in accordance with **subsection (2)** of this section in respect of any item of property and any income year, shall apply, and may not be subsequently altered by the taxpayer,—

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

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

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

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

*Struck Out*

“108c. **Depreciation rate**—(1) The applicable annual depreciation rate for any depreciable property other than excluded depreciable property shall be specified by the Commissioner by determination. 5

“(2) In setting a straight line rate of depreciation under this section for any class of depreciable property the Commissioner shall, in general terms and subject to **subsections (3) and (4)** of this section, apply and have regard to the following formula: 10

$$\frac{\text{cost} - \text{estimated residual market value}}{\text{cost} \times \text{estimated useful life}} \quad 10$$

*New*

“108c. **Basic economic depreciation rate**—(1) The basic economic depreciation rate for any depreciable property other than fixed life intangible property or excluded depreciable property shall be specified by the Commissioner by determination under this section. 15

“(1A) Any such determination may specify for any depreciable property either the diminishing value rate only or both a diminishing value rate and a straight line rate. 20

“(2) In setting a diminishing value economic rate under this section the Commissioner shall, in general terms and subject to **subsections (3) and (4)** of this section, apply and have regard to the following formula: 25

$$1 - \left( \left( \frac{\text{residual value}}{\text{cost}} \right)^{\frac{1}{\text{estimated useful life}}} \right) \quad 25$$

where ‘residual value’ is the greater of—

“(a) Estimated residual market value; and

“(b) An amount equal to 13.5 percent of cost. 30

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

“(a) The rates calculated for each of those types of depreciable property; and 35

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

5 “(4) ~~(A rate of depreciation)~~ An economic rate issued in a determination by the Commissioner under **subsection (1)** of this section shall be one of the rates specified in the **(Twenty-First) Twenty-third Schedule** to this Act, and that rate shall be obtained by the Commissioner rounding either up or down the rate initially calculated in accordance with **subsection (2)** of this section to the nearest rate specified in that Schedule.

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

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

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

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

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

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

30 “(6) No determination made under this section shall apply to reduce the (rate of depreciation) economic rate already applying under this section (but not under **section 108E** of this Act) to any item of property acquired by a taxpayer before the date on which the determination was issued (or acquired *(within 12 months)* after that date pursuant to a binding contract entered into before that date), except in the situation where the taxpayer disposes or has disposed of the property and subsequently re-acquires it after that date.

35

*New*

40 “108CA. **Annual depreciation rate for property acquired before end of 1994–95 income year**—(1) The annual depreciation rate for any depreciable property of a taxpayer (not being fixed life intangible property or excluded depreciable property) acquired by the taxpayer before the end of the taxpayer’s 1994–95 income year shall be—

*New*

- “(a) Its basic economic depreciation rate; or
- “(b) If the taxpayer so elects in accordance with **subsection (2)** of this section, its pre-1993 depreciation rate.
- “(2) An election made by a taxpayer under **subsection (1) (b)** of this section—
- “(a) May be made in respect of all or any items of property of the taxpayer to which such an election may apply; and
- “(b) Shall be made by applying to any such item of property, in the taxpayer’s return of income for the income year in respect of which the election is made, the pre-1993 depreciation rate for that item of property; and
- “(c) May not subsequently be altered for the income year in respect of which it was made.
- “(3) For the purposes of this section, the term ‘pre-1993 depreciation rate’, in respect of any item of depreciable property of a taxpayer, means the rate of depreciation that the Commissioner allowed to be used in the 1992–93 income year to calculate an allowance by way of depreciation under section 108 of this Act (as then in force) in respect of depreciable property of that class, such rate to be determined—
- “(a) As inclusive of the rate of any allowance that the item of property would have been eligible for under section 113A of this Act if it had been acquired by the taxpayer in the 1992–93 income year; and
- “(b) As inclusive of the rate of any allowance available in the 1992–93 income year under **section 108** of this Act (being the former section 108A) in respect of depreciable property of that class, where the item of property has not been used or held for use in New Zealand (other than as trading stock) by any person before the date on which the taxpayer acquired it.
- “**108CB. Annual depreciation rate for property acquired in 1995–96 or subsequent income year**—The annual depreciation rate for any depreciable property of a taxpayer (not being fixed life intangible property or excluded depreciable property) acquired by the taxpayer in the taxpayer’s 1995–96 income year or any subsequent year shall be—

*New*

“(a) In the case of property that—

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

10 “(ii) Is neither a building nor a used imported motorcar—  
a rate equal to its basic economic depreciation rate multiplied by a factor of 1.20:

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

15 “108cc. **Annual depreciation rate for fixed life intangible property**—The annual depreciation rate for any fixed life intangible property of a taxpayer shall be the rate, expressed as a decimal and rounded to two decimal places (with numbers at the midpoint or greater being rounded up and other numbers being rounded down), calculated in accordance with the following formula:

20 
$$\frac{1}{\text{legal life}}$$

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

25 “108D. **Depreciation rate for excluded depreciable property**—(1) The annual depreciation rate for any excluded depreciable property shall be the rate which the Commissioner allowed to be used to calculate an allowance by way of depreciation under section 108 of this Act (as then in force) in respect of depreciable property of that class in the 1992–93  
30 income year for a standard balance date taxpayer, which rate shall be exclusive of any additional or supplemental allowance available in respect of ~~(the 1992–93)~~ that income year under section 108A (as so numbered before the enactment of **section 14** of ~~(the Taxation Reform Act (No. 5) 1992)~~ this Act) or section 113A or  
35 any other section of this Act.

*Struck Out*

“(2) Where in the 1993–94 income year or any subsequent year a taxpayer is entitled under **section 108** or section 113A or

*Struck Out*

any other provision of this Act to an additional or supplemental allowance on account of depreciation of any excluded depreciable property, that additional or supplemental allowance shall be determined separately under the relevant section, and the appropriate deduction added to the deduction calculated in respect of that property under **section 108A** of this Act. 5

*New*

“(2) Notwithstanding **subsection (1)** of this section, where in the 1993–94 income year or any subsequent year a taxpayer is entitled under **section 108**~~1~~ or section 113A or any other provision of this Act to any additional or supplemental allowance on account of depreciation of any excluded depreciable property,— 10 15

“(a) The rate applicable to that property under **subsection (1)** of this section may be adjusted to incorporate that additional or supplemental allowance in such manner as may be prescribed or allowed by the Commissioner; and 20

“(b) Where such an adjusted rate is applied to the property, a separate deduction shall not be calculated or allowed in respect of the property under the said **section 108**~~1~~ or section 113A or other section. 25

“(3) Where the depreciation rate referred to in **subsection (1)** or **subsection (2)** of this section is— 25

“(a) A diminishing value rate, the depreciable property may instead be depreciated at the straight line rate determined by— 30

*Struck Out*

“(i) Rounding that diminishing value rate to the nearest rate specified in the second column of the **Twenty-Second Schedule** to this Act; and 30

“(ii) Ascertaining the straight line rate specified in that Schedule as being equivalent to that nearest diminishing value rate; or 35



*New*

5 “(i) Rounding (if necessary) that diminishing value rate to the nearest rate specified in the first column of the **Twenty-fourth Schedule** to this Act; and  
 “(ii) Ascertaining the equivalent straight line rate (if any) specified in the second column of that Schedule; or

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

*Struck Out*

15 “(i) Rounding that straight line rate to the nearest rate specified in the first column of the **Twenty-Second Schedule** to this Act; and  
 “(ii) Ascertaining the diminishing value rate (if any) specified in that Schedule as being equivalent to that nearest straight line rate.

*New*

20 “(i) Rounding (if necessary) that straight line rate to the nearest rate specified in the second column of the **Twenty-Third Schedule** to this Act; and  
 “(ii) Ascertaining the equivalent diminishing value rate specified in the first column of that Schedule.

*Struck Out*

25 “108E. **Special and provisional rates of depreciation—**  
 (1) The Commissioner may, upon application in writing from a taxpayer in respect of any depreciable property other than excluded depreciable property, allow that taxpayer to apply in respect of that property, for such income year or years as the  
 30 Commissioner may specify,—  
 “(a) A special rate of depreciation higher than that specified in a determination under **section 108c** of this Act; or

*Struck Out*

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

*New*

5

“108E. **Special and provisional economic rates**—(1) The Commissioner may, upon application in writing from a taxpayer in respect of any depreciable property other than fixed life intangible property or excluded depreciable property, allow that taxpayer to apply in respect of that property, for such income year or years as the Commissioner may specify,— 10

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

“(b) A provisional basic economic depreciation rate, where no applicable economic rate is specified in a determination under **section 108c** of this Act. 15

“(2) When determining whether or not to allow a (*special rate or a provisional rate*) special economic rate or a provisional economic rate under **subsection (1)** of this section, and the rate (if any) at which such a rate is to be set, the Commissioner shall have regard to— 20

“(a) The formula set out in **section 108c (2)** of this Act; and

“(b) The rate of depreciation, if any, adopted by the taxpayer in respect of the depreciable property for financial reporting purposes. 25

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

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

*Struck Out*

30

“(i) Any appropriate rate calculated having regard to **subsection (2)** of this section would not exceed the general rate already applicable to the property under **section 108c** of this Act by an amount equal to or greater than one-half of the amount by which the next highest banded rate specified in the **Twenty-First** 35

*Struck Out*

**Schedule** to this Act exceeds that already applicable general rate; or

*New*

5                   “(i) Any appropriate rate calculated having regard  
to **subsection (2)** of this section would not differ from  
the general economic rate already applicable to the  
property under **section 108c** of this Act by an amount  
10                   equal to or greater than one half the amount by  
which the next highest or lowest (as the case may  
require) banded rate specified in the **Twenty-third  
Schedule** to this Act exceeds or is less than that  
already applicable general economic rate; or

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

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

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

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

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

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

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

- “(a) That determination may also be expressed to apply in respect of property of that class and any other taxpayer or class of taxpayers; and
- “(b) That determination shall cease to apply to the taxpayer and the property, or to any other taxpayer, where the Commissioner sets a general economic rate under **section 108c** of this Act in respect of property of that class, unless the determination otherwise specifically provides. 5
- “(5) Where the Commissioner has issued a determination under this section which sets a special economic rate, and the circumstances that applied at the time the determination was issued no longer exist or have changed in a material particular, the Commissioner may— 10
- “(a) Revoke the determination (thereby requiring any property affected to be depreciated *(at the general rate)* on the basis of the general economic rate or any applicable provisional rate); or 15
- “(b) Revoke the determination and issue a new determination that sets a new special economic rate in respect of the property concerned. 20

*New*

“(5A) A revocation effected under **subsection (5)** of this section shall take effect on the day after the date on which notice of the revocation is given to the taxpayer under **section 108H (2)** of this Act or, where the notice is published in the *Gazette*, on the day after the date of the publication of the notice in the *Gazette*. 25

“(6) Any taxpayer who has applied for a determination under this section, and any taxpayer to whom a determination made under this section applies, may, within 2 months after the date the Commissioner gives notice under **section 108H** of this Act of— 30

- “(a) The issuing of the determination; or
- “(b) The Commissioner’s decision not to issue the determination; or 35
- “(c) The revocation of the determination,—
- object to the rate specified in or the application of the determination, or to the Commissioner’s revocation of or decision not to issue the determination, as the case may be, by delivering or posting to the Commissioner a written notice of objection stating shortly the grounds of that person’s objection. 40

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

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

*Struck Out*

“(9) Where a special rate of depreciation has applied to  
15 property of a taxpayer in any income year, the taxpayer shall not in any subsequent income year depreciate that property at the applicable general rate or any applicable provisional rate where—

*New*

“(9) Where a special economic rate of depreciation that is  
20 higher than the general economic rate has applied to property of a taxpayer in any income year, the taxpayer shall not in any subsequent year depreciate that property on the basis of the applicable general economic rate or any applicable provisional  
25 economic rate where—

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

*Struck Out*

“108F. **Pool method of depreciation**—(1) The deduction on account of depreciation which may be claimed for any income year in respect of any pool of depreciable property and any pool depreciation period of that pool that ends during that income year or at the end of that income year shall be calculated in accordance with the following formula: 5

$$\frac{a}{2} \times b \times \frac{c}{6} \quad 10$$

where—

- “a is the diminishing value rate of depreciation applicable to all items included in the pool during the pool depreciation period, or, if items having different depreciation rates were included in the pool at any time during that period, the lowest of those different diminishing value rates; and 15
- “b is the adjusted tax value of the pool on the last day of the pool depreciation period immediately before deduction of an amount on account of depreciation in respect of that period; and 20
- “c is the number of whole or part calendar months in the pool depreciation period. 25

*New*

“108F. **Pool method of depreciation**—(1) The deduction on account of depreciation that may be claimed for any income year in respect of any pool of depreciable property shall be calculated in accordance with the following formula: 25

$$a \times \frac{b + c}{2} \times \frac{d}{12} \quad 30$$

where—

- “a is the diminishing value annual depreciation rate applicable to all items depreciated in the pool during the income year, or, if items having different annual rates were depreciated in the pool at any time during the income year, the lowest of those different rates; and 35

## New

- “b is the adjusted tax value of the pool at the beginning of the income year (or nil, if the pool did not then exist); and
- 5 “c is the adjusted tax value of the pool at the end of the income year before any deduction for depreciation in that income year has been made; and
- “d is the number of whole or part calendar months in the taxpayer’s income year.
- 10 “(2) Any deduction on account of depreciation available to a taxpayer in respect of a pool for any *(pool depreciation period) income year* shall be treated as a deduction from the adjusted tax value of the pool as at the last day of that *(pool depreciation period) income year*.
- 15 “(3) Where a taxpayer elects to include an item of poolable property in a pool, the adjusted tax value of the pool shall be increased by—
- “a) The cost of the item, if the item was included in the pool immediately upon its acquisition, *(the cost of the item)*;
- 20 or
- “b) The adjusted tax value of the item at the date of its inclusion in the pool, if the item was previously accounted for separately, *(the adjusted tax value of the item at the date of transfer)*.
- 25 “(4) Where any item of property accounted for under the pool depreciation method is sold or otherwise disposed of the following provisions shall apply:
- “a) Any consideration derived by the taxpayer on disposal of the item shall be deducted from the adjusted tax value of the pool in which the item was included as at the date of the disposition; and
- 30 “b) Where on the last day of any *(pool depreciation period) income year* the adjusted tax value of the pool is negative,—
- 35 “(i) An amount equal to the amount by which the adjusted tax value is less than nil shall be deemed to be assessable income of the taxpayer derived in the *(relevant pool depreciation period) income year* as if it were assessable income derived by virtue of **section (117(1)) 117 (2)** of this Act; and
- 40 “(ii) On the first day of the immediately succeeding *(pool depreciation period) income year* the

adjusted tax value of the pool shall be deemed to be nil; and

“(c) Where on the last day of any *(pool depreciation period)* income year the adjusted tax value of the pool is positive but all items of depreciable property which were in the pool have been sold or otherwise disposed of,—

“(i) An amount equal to the adjusted tax value of that pool shall be deducted from the assessable income of the taxpayer for *(the income year in which that last day occurs)* that income year; and

“(ii) On the first day of the immediately succeeding *(pool depreciation period)* income year the adjusted tax value shall be deemed to be nil.

“(5) A taxpayer may at any time combine any number of pools to form a single pool, and where this is done—

“(a) The adjusted tax value of the new pool shall be an amount equal to the sum of the adjusted tax values of the constituent pools; and

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“(b) The pool depreciation period of each of those constituent pools shall end on the day preceding that in which the pools are combined.

*New*

“(b) The adjusted tax value of each of the constituent pools at the end of that income year shall be nil.

“(6) A taxpayer may request the Commissioner to issue, and the Commissioner may issue, a determination in respect of any depreciable property that allows a maximum pooling value greater than that currently available to the taxpayer *(for the depreciable property within the pool)*.

“(7) Where a taxpayer makes a request for a determination under **subsection (6)** of this section in respect of any depreciable property, the Commissioner shall, in determining whether or not to issue the determination, have regard to the following factors:

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



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

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

*New*

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

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

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

20 “108<sup>FA</sup>. **Depreciation of depreciable property that can no longer be used**—(1) The deduction on account of depreciation that may be claimed for any income year in respect of any depreciable property that can no longer be used (other than a building or property that has been depreciated using the pool depreciation method) shall be, if the Commissioner so determines, an amount equal to the adjusted tax value of that property.

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

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

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

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

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

*New*

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

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

“(a) Shall be satisfied—

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

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

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

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

*Struck Out*

“108H. **Notification**—Where the Commissioner has issued or declined to issue or revoked any determination under any of **sections 108 to 108F** of this Act the Commissioner shall either—

“(a) Give written notice of the determination, or as the case may be of the reasons for declining to issue or revoking the determination, and supply a copy of the determination (if made) to the taxpayer or the representative of the taxpayer who applied for it; or

“(b) Where a determination is issued under **section 108c** of this Act, or a determination issued under **section 108E (1) (b)** of this Act is expressed to apply to a class of

*Struck Out*

taxpayers, notify the making of the determination in the *Gazette*, which notification shall specify where copies of the determination can be obtained,—  
 5 within 30 days of issuing the determination or declining to issue or revoking a determination, as the case may be.”

*New*

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

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

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

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

25 “(a) Give written notice of the determination, or, as the case may require, of the reasons for declining to issue or for revoking the determination, and supply a copy of the determination (if made) to the taxpayer or the representative of the taxpayer who applied for it; or

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

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

35 (2) The following enactments are hereby consequentially repealed:

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

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

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

*Struck Out*

(3) Subject to **subsection (4)** of this section, this section shall apply with respect to the tax on income derived in the 1993-94 income year and subsequent years. 5

(4) Notwithstanding **subsection (3)** of this section, the amount of depreciation that the Commissioner may allow under section 108 of the principal Act in respect of—

(a) The 1992-93 income year and any taxpayer who has a late balance date for that income year; and 10

(b) Any property of any such taxpayer that—

(i) Is depreciable property within the meaning of **section 107A** of the principal Act (as enacted by **subsection (1)** of this section); and 15

(ii) Is not excluded depreciable property within the meaning of that section; and

(iii) Is not property of a kind accounted for by the taxpayer in the 1992-93 income year using any of the standard value, replacement value, and annual revaluation methods,— 20

shall be determined at the rate set for that property under **section 108c** of the principal Act (as so enacted), and no additional or supplemental allowance shall be allowable in respect of the property if that additional or supplemental allowance would not have been allowable in respect of the property for the 1993-94 income year. 25

*New*

(3) Subject to **subsection (4)** of this section, **sections 107A, 108c, 108cA, 108cc, 108E, 108G, and 108H** of this Act (as enacted by **subsection (1)** of this section) shall come into force on the 1st day of April 1993. 30

(4) Notwithstanding **subsection (3)** of this section, where a taxpayer's 1993-94 income year commences before the 1st day of April 1993, **sections 107A, 108G, and 108H** of the principal Act shall have effect in relation to that taxpayer as if they had come into force on the date of the commencement of that taxpayer's 1993-94 income year. 35

*New*

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

## PART II

## RELATED AMENDMENTS AND REPEALS

10 **13A. Objections to which this Part does not apply—**  
Section 36 of the principal Act is hereby amended by repealing paragraph (g).

15 **13B. Income derived from use or occupation of land—**  
Section 74 of the principal Act (as substituted by section 4 of the Income Tax Amendment Act (No. 4) 1986) is hereby amended by repealing subsection (4), and substituting the following subsection:

“(4) Where—

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

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

**13c. Sums received from sale of patent rights—**  
(1) Section 83 of the principal Act is hereby amended—

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

(b) By inserting in subsection (3) (a), after the words “devising of the invention”, the words “(to the extent that a

*New*

deduction for that expenditure has not already been allowed under section 143 (2) of this Act”:

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

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

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

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

**13D. Excess income on sale of livestock where farmer forced to quit farm, etc.**—Section 94 of the principal Act is hereby amended—

- (a) By inserting in paragraph (a) of the definition of the term “qualifying expenditure” in subsection (1), after the expression “section 122 of this Act”, the words “as in force before its repeal by section 16 (1) (n) of the Income Tax Amendment Act (No. 11) 1993”:
- (b) By inserting in both paragraph (a) and paragraph (b) of subsection (10), in each case after the words “of section 125 of this Act”, the words “(as in force before its repeal by section 16 (1) (p) of the Income Tax Amendment Act (No. 11) 1993)”.

**13E. Deductions for motor vehicle expenses**—Section 106B of the principal Act (as substituted by section 7 of the Income Tax Amendment Act (No. 3) 1990) is hereby amended—

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

**14. Section 108A renumbered and amended**—(1) The principal Act is hereby amended by renumbering, as section

**108i**, the section 108A inserted (*in*) into the principal Act by section 17 (1) of the Income Tax Amendment Act (No. 2) 1992.

*New*

5 (1A) The said **section 108i** (as so renumbered by **subsection (1)** of this section) is hereby amended by omitting from the definition in subsection (1) of the term “qualifying asset” the words “, in the exercise of the Commissioner’s discretion under **section 108** of this Act,”.

*Struck Out*

10 (2) The following provisions of the principal Act are hereby consequentially amended by omitting the expression “section 108A (1)”, and substituting in each case the expression “**section 108i (1)**”:

- 15 (a) Section 86H (1A) (b) (ii) (as inserted by section 14 (1) of the Income Tax Amendment Act (No. 2) 1992):
- (b) Section 128A (4) (a) (ii) (as inserted by section 18 (1) of the Income Tax Amendment Act (No. 2) 1992):
- (c) Section 128B (4) (a) (ii) (as inserted by section 19 (1) of the Income Tax Amendment Act (No. 2) 1992):
- 20 (d) Section 128C (4) (a) (ii) (as inserted by section 20 (1) of the Income Tax Amendment Act (No. 2) 1992):
- (e) Section 140B (6A) (as inserted by section 21 (1) of the Income Tax Amendment Act (No. 2) 1992).

*New*

25 **14A. Low value asset write-off**—(1) The principal Act is hereby amended by inserting, after section 108i (the section renumbered by **section 14** of this Act), the following section:

- “108j. (1) For the purposes of this section, ‘low value property’ means any property of a taxpayer—
- 30 “(a) Which is acquired for a consideration not exceeding \$200 or such higher value as may from time to time be specified by the Governor-General by Order in Council for the purposes of this definition; and
- “(b) Which the taxpayer elects to treat as low value property;
- 35 and

*New*

“(c) Which is not purchased at the same time and from the same supplier as any other property to which, if all those items of property were treated as depreciable property, the same depreciation rate would apply, unless the total consideration for all those items is equal to or less than the amount referred to in **paragraph (a)** of this subsection; and 5

“(d) Which has not or will not become part of property that is depreciable property within the meaning of **section 107A** of this Act; and 10

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

“(2) In calculating the assessable income of any taxpayer for any income year, the cost of any low value property purchased by the taxpayer in that income year shall be deducted from the total income of the taxpayer in that income year. 15

“(3) Where in any income year a taxpayer disposes of any low value property for which the taxpayer has claimed a deduction under **subsection (2)** of this section, the consideration derived from that disposal shall be assessable income of the taxpayer in that income year. 20

“(4) An election under **subsection (1)(b)** of this section in respect of any property shall be made by the taxpayer claiming, in the taxpayer’s return of income for the income year in respect of which the election is made, a deduction for the cost of the property.” 25

(2) **Section 108J** of the principal Act (as inserted by **subsection (1)** of this section) shall, in relation to intangible property, come into force on the 1st day of April 1993. 30

**14B. Depreciation deduction where depreciated asset acquired by taxpayer from associated person**—The principal Act is hereby amended by repealing section 111 (as amended by section 54 of the Income Tax Amendment Act 1979), and substituting the following section: 35

“111. (1) Where a taxpayer has acquired any property from an associated person (as defined in section 245B of this Act) entitled to a deduction in respect of the depreciation of the property, irrespective of whether or not any deduction has in fact been allowed to that associated person, the Commissioner shall not allow to the taxpayer any greater deduction in respect 40



*New*

of the depreciation of the property than that which would have been allowed to the associated person if the associated person had retained the property:

5       “Provided that where any amount so allowed as a deduction to the associated person has been dealt with under **section 117** of this Act, the Commissioner may allow to the taxpayer a deduction in respect of the depreciation of the property based on the aggregate of the total of all amounts so dealt with and  
10 the amount of that depreciated value of the property immediately before it was acquired by the taxpayer.

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

**14c. Depreciation allowance where asset acquired by taxpayer as a result of a transfer under a matrimonial agreement**—Section 111A of the principal Act (as inserted by  
20 section 54 (1) of the Income Tax Amendment Act (No. 3) 1983) is hereby amended by omitting the expression “, sections 108 to 110, and sections 112 to 116”, and substituting the expression “and **sections 107A** to 110”.

**14d. Supplementary depreciation allowance for plant and machinery used in 2 and 3 shift industries**—  
25 (1) Section 113A of the principal Act (as inserted by section 17 of the Income Tax Amendment Act (No. 2) 1977) is hereby amended by inserting, after subsection (1), the following subsection:

30       “(1A) This section shall not, in respect of the 1993–94 income year and any subsequent year, apply to any depreciable property within the meaning of **section 107A** of this Act unless that property is excluded depreciable property within the meaning of that section.”

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

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

*New*

year, allowed under section 108 of this Act as then in force”:

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

*Struck Out*

**15. Gain or loss from disposition of depreciable property**—(1) Section 117 (1) of the principal Act (as substituted by section 24 (1) of the Income Tax Amendment Act 1978) is hereby amended—

- (a) By inserting, after the words “(including a building”, the words “, but not including any asset that at the time of disposition is accounted for within a pool of depreciable property in accordance with **section 108F** of this Act”:

(b) By repealing the second proviso.

(2) Section 117 of the principal Act is hereby amended by inserting, after subsection (1), the following subsection:

“(1AA) Where the Commissioner has, for any year of assessment, allowed a deduction in respect of the depreciation of any asset (other than a building and other than an asset that at the time of disposition is accounted for within a pool of depreciable property in accordance with **section 108F** of this Act), and the taxpayer at any time afterwards sells or otherwise disposes of the asset, the amount (if any) by which—

“(a) The adjusted tax value (as defined in **section 107A** of this Act) of the asset at the time of disposition; or

“(b) The amount that would be the adjusted tax value of the asset at the time of disposition if the asset were depreciable property within the meaning of **section 107A** of this Act,—

exceeds the consideration derived by the taxpayer from the sale or disposition shall, subject to section 104 of this Act but notwithstanding section 106 (1) (a) of this Act, be deducted from the assessable income of the taxpayer in the income year in which the sale or disposition occurs.”

(3) Section 117 of the principal Act is hereby further amended by repealing subsections (2) and (3).

*Struck Out*

(4) Section 117 (5) of the principal Act is hereby amended by repealing paragraph (c), except the proviso, and substituting the following paragraph:

5 “(c) Where any asset, being—

“(i) An asset owned by a person who is not resident in New Zealand; or

10 “(ii) An asset in respect of which a first year allowance has been granted under section 112 of this Act (other than under subsection (8) of that section),—

15 has ceased to be used in New Zealand and has been taken out of New Zealand for use outside New Zealand, that asset shall be deemed to have been sold or otherwise disposed of on the date on which it was taken out of New Zealand and to have been sold at a price equal to the market price or the true value of that asset at that date, and, in any case where there is no market price, shall be deemed to have been sold at and to have realised such price as the Commissioner determines.”

20 (5) Section 117 (8) of the principal Act is hereby amended by repealing paragraph (a), and substituting the following paragraph:

25 “(a) The amount of that excess shall, so far as it extends, be deducted from—

“(i) The adjusted tax value of that asset, where the asset is depreciable property within the meaning of section 107A of this Act; or

30 “(ii) The amount to which the asset’s value has been reduced for the purposes of tax by reason of any depreciation allowances, where the asset is not depreciable property; and”.

35 (6) Section 117 (8) of the principal Act is hereby further amended by repealing the proviso.

(7) The following enactments are hereby consequentially repealed:

(a) Section 24 (1) of the Income Tax Amendment Act 1978:

40 (b) Section 18 (2) of the Income Tax Amendment Act (No. 3) 1983:

(c) Section 28 (1) of the Income Tax Amendment Act (No. 4) 1986:

*Struck Out*

(d) Section 2 (1), (3), and (4) of the Income Tax Amendment Act (No. 4) 1988.

(8) This section shall apply with respect to the tax on income derived in the 1993-94 income year and subsequent years. 5

*New*

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

“117. (1) This section applies to the disposal of property of a taxpayer, being property— 10

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

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

“(ii) Software for which a deduction has been claimed for its purchase or creation costs; but 15

“(b) Which is not—

“(i) Schedule depreciable property; or

“(ii) Property that, at the time of disposition, is accounted for within a pool of items of property in accordance with section 108F of this Act. 20

“(2) Subject to subsection (4) of this section, where in any income year any property is disposed of by a taxpayer for a consideration that exceeds the adjusted tax value of that property on the date of disposition, the lesser of the following amounts shall be included in the assessable income derived by the taxpayer in that income year— 25

“(a) The aggregate of amounts allowed under this Act to the taxpayer as a deduction on account of depreciation in respect of the property (or, in the case of property referred to in subsection (1) (a) (ii) of this section, any deduction allowed for the purchase or creation of that property); and 30

“(b) The amount (if any) by which the consideration derived by the taxpayer from the disposition exceeds the adjusted tax value of the property as at the date of disposition. 35

*New*

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

“(4) Where any property of a taxpayer—

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

20 “(b) Was, in the 1992–93 income year or any prior income year, property on which the deduction on account of depreciation allowed to the taxpayer by the Commissioner under section 108 of this Act (as then in force) was less than the deduction that the Commissioner would have allowed the taxpayer if the taxpayer had used the property wholly in the gaining or producing of assessable income or in carrying on a business for the purpose of gaining or producing assessable income on account of the property not being wholly so used,—  
25 the amount of any—

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

30 “(d) Deduction under **subsection (3)** of this section—  
shall be calculated in accordance with the following formula:

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

where

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

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

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

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

*New*

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

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

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

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

“(b) Along with any other property; or

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

“(d) In accordance with **subparagraph (ii) or subparagraph (iii) of paragraph (a)** of the definition of the term ‘disposal’ in **subsection (10)** of this section,—

the Commissioner may deem the property to have been disposed of for a consideration equal to the property’s market value.

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

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

“(b) The person acquiring the property shall be deemed to have been allowed in calculating the assessable income derived by that person a deduction (additional to any deduction for depreciation

*New*

claimed in respect of that asset by that person) of an amount equal to the sum of all deductions claimed by the taxpayer in respect of the depreciation of the asset.

5

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

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

10

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

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

15

“(10) In this section, ‘disposal’—

“(a) Includes—

20

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

25

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

30

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

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

35

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

40

## New

- deduction on account of depreciation shall be claimed in that subsequent income year:
- “(iv) Any event whereby the rights which constitute or are part of an item of intangible property will no longer be able to be exercised, at any time, by the taxpayer who owns that property: 5
- “(v) Any event as a consequence of which the property is irreparably damaged; but
- “(b) Does not include, in the case of intangible property, the disposal of that property as part of an arrangement to replace it with property of the same type. 10
- “(11) For the purposes of this section,—
- “(a) The terms ‘depreciable property’, and ‘software’ have the same meaning as in **section 107A (1)** of this Act; 15  
and
- “(b) The adjusted tax value of depreciable property is, subject to **paragraph (c)** of this subsection, the same as the adjusted tax value of that property under **section 107A (1)** of this Act; and 20
- “(c) The adjusted tax value of software is nil if—
- “(i) It is disposed of to an associated person; and
- “(ii) A deduction has been claimed for its purchase costs or creation costs; and
- “(d) The consideration derived from any disposition of property shall be treated as the amount so derived less any amount payable by the taxpayer in disposing of the property (not being an amount otherwise deductible under this Act).” 25
- (2) **Section 117** of the principal Act (as substituted by **subsection (1)** of this section) shall, in relation to intangible property, come into force on the 1st day of April 1993. 30

**15A. Expenditure on land improvements used for farming or agriculture**—(1) Section 128A (4) (a) of the principal Act (as inserted by section 12 of the Income Tax Amendment Act (No. 4) 1986 and substituted by section 18 of the Income Tax Amendment Act (No. 2) 1992) is hereby amended— 35

- (a) By omitting from subparagraph (i) (B) the expression “; and”, and substituting the expression “, or”: 40
- (b) By adding to subparagraph (i) the following subparagraph:



*New*

- 5 “(C) Incurred by the taxpayer on or after the 1st day of April 1993 and before the end of the taxpayer’s 1994–95 income year; and”:
- (c) By omitting from subparagraph (ii) the expression “1st day of April 1993”, and substituting the expression “end of the taxpayer’s 1994–95 income year”:
- 10 (d) By omitting from subparagraph (ii) the expression “section 108A(1)”, and substituting the expression “**section 108i(1)**”.
- (2) The said section 128A(4) is hereby amended by inserting, after paragraph (a), the following paragraph:
- 15 “(aa) Where the expenditure is incurred in the taxpayer’s 1995–96 income year or in any subsequent year, an amount calculated in accordance with the following formula:
- $$1.20 \times a \times b$$
- where—
- 20 “a is the percentage specified in Part I of the Thirteenth Schedule to this Act in relation to the item of expenditure; and
- “b is the diminished value of that item of expenditure.”
- 25 **15B. Expenditure on land improvements used for forestry**—(1) Section 128B(4)(a) of the principal Act (as inserted by section 12 of the Income Tax Amendment Act (No. 4) 1986 and substituted by section 19 of the Income tax Amendment Act (No. 2) 1992) is hereby amended—
- 30 (a) By omitting from subparagraph (i)(B) the expression “; and”, and substituting the expression “; or”:
- (b) By adding to subparagraph (i) the following subparagraph:
- 35 “(C) Incurred by the taxpayer on or after the 1st day of April 1993 and before the end of the taxpayer’s 1994–95 income year; and”:
- (c) By omitting from subparagraph (ii) the expression “1st day of April 1993”, and substituting the expression “end of the taxpayer’s 1994–95 income year”:

*New*

- (d) By omitting from subparagraph (ii) the expression “section 108A(1)”, and substituting the expression “**section 108i(1)**”.
- (2) The said section 128B(4) is hereby amended by inserting, 5  
after paragraph (a), the following paragraph:
- “(aa) Where the expenditure is incurred in the taxpayer’s 1995–96 income year or in any subsequent year, an amount calculated in accordance with the following formula: 10
- $$1.20 \times a \times b$$
- where—
- “a is the percentage specified in Part II of the Thirteenth Schedule to this Act in relation to the item of expenditure; and 15
- “b is the diminished value of that item of expenditure.”
- 15c. Expenditure on improvements in relation to aquaculture—**(1) Section 128c(4)(a) of the principal Act (as inserted by section 12 of the Income Tax Amendment Act 20  
(No. 4) 1986 and substituted by section 20 of the Income Tax Amendment Act (No. 2) 1992) is hereby amended—
- (a) By omitting from subparagraph (i)(B) the expression “; and”, and substituting the expression “; or”:
- (b) By adding to subparagraph (i) the following subparagraph: 25  
“(C) Incurred by the taxpayer on or after the 1st day of April 1993 and before the end of the taxpayer’s 1994–95 income year; and”:
- (c) By omitting from subparagraph (ii) the expression “1st 30  
day of April 1993”, and substituting the expression “end of the taxpayer’s 1994–95 income year”:
- (d) By omitting from subparagraph (ii) the expression “section 108A(1)”, and substituting the expression “**section 108i(1)**”. 35
- (2) The said section 128c(4) is hereby amended by inserting, after paragraph (a), the following paragraph:
- “(aa) Where the expenditure is incurred in the taxpayer’s 1995–96 income year or in any subsequent year, an amount calculated in accordance with the following formula: 40

*New*

$$1.20 \times a \times b$$

where—

- 5       “a is the percentage specified in Part III of the Thirteenth Schedule to this Act in relation to the item of expenditure multiplied by a factor of 1.20; and
- “b is the diminished value of that item of expenditure.”

10       **15D. Deductions by lessor of land used for farming or agricultural purposes**—Section 131 of the principal Act is hereby amended by repealing paragraph (a).

**15E. Premium paid in respect of lease of land**—  
 15       (1) Section 137 (2) of the principal Act is hereby amended by inserting, after the words “the renewal of the lease”, the words “being a grant or renewal occurring before the 1st day of April 1993”.

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

20       **15F. Premium paid in respect of leased machinery**—  
 (1) Section 139 (1) of the principal Act is hereby amended—

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

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

**15G. Accounting for goods and services tax**—(1) Section 140B of the principal Act (as inserted by section 29 (1) of the  
 30       Income Tax Amendment Act (No. 4) 1986) is hereby amended by omitting from subsection (6) all the words before paragraph (a), and substituting the words “For the purposes of section 108 of this Act, where any depreciation deduction for any property is calculated by reference to the cost price of that property,  
 35       that cost price shall be—”.

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

*New*

the expression “section 108A”, and substituting the expression “section 108i”.

**15H. Purchase of patent rights**—(1) Section 142 (1) of the principal Act is hereby amended by inserting, after the word “purchase”, the words “before the 1st day of April 1993”. 5

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

**15I. Patent expenses**—(1) Section 143 (2) of the principal Act is hereby amended by inserting, after the words “expenditure incurred”, the words “before the 1st day of April 1993”. 10

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

**15J. Expenditure on scientific research**—(1) Section 144 (1) (a) of the principal Act (as substituted by section 12 (1) of the Income Tax Amendment Act (No. 3) 1986) is hereby amended by inserting, after the words “relates to an asset”, the words “(not being an asset created from the scientific research)”. 15 20

(2) Section 144 (1) (b) of the principal Act (as substituted by section 12 (1) of the Income Tax Amendment Act (No. 3) 1986) is hereby amended by omitting the words “(being an asset to which the provisions of section 113 of this Act do not apply)”. 25

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

**15K. Government grants to business**—Section 169 of the principal Act is hereby amended by repealing both subsection (3A) (as inserted by section 38 of the Income Tax Amendment Act 1980) and subsection (4). 30

**15L. Special provisions relating to dispositions of property**—(1) Section 191N (1) of the principal Act (as so inserted) is hereby amended by repealing paragraph (d), and substituting the following paragraphs:

“(ca) The transferee shall, where the transferor entered into a binding contract to purchase or construct any depreciable property before the 16th day of 35

*New*

December 1991, be deemed to have entered into that binding contract on the same date as the transferor; and

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

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

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

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

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

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

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

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

“(B) The adjusted tax value (within the meaning of **sections 107A and 108F** of this Act) of the whole of the pool immediately before the

*New*

property was disposed of to the transferee.”

(2) Section 191N (2) of the principal Act (as so inserted) is hereby amended by inserting, after the words “any depreciating property”, the words “(other than pooled property)”. 5

**15M. Profits of mutual associations in respect of transactions with members**—Section 199 (4) of the principal Act is hereby amended by repealing paragraph (b) (as amended by section 25 of the Income Tax Amendment Act 1979 and section 25 (2) (e) of the Income Tax Amendment Act (No. 3) 1983). 10

**16. Repeal of certain spent provisions in relation to depreciation**—The following provisions of the principal Act are hereby repealed: 15

- (a) Subsections (3), (5), and (6) of section 110 (which relate to certain depreciation allowances on motorcars):
- (b) Section 112 (which relates to first year depreciation allowances): 20
- (c) Section 113 (which relates to additional depreciation allowances for plant, machinery, and equipment used for scientific research):
- (d) Section 114 (which relates to depreciation allowances for approved tractor safety frames): 25
- (e) Section 114A (which relates to depreciation allowances for approved taxicab safety devices):

*Struck Out*

(f) Section 114B (which relates to depreciation allowances for alternative fuel systems in certain motorcars): 30

- (g) Section 114c (which relates to additional depreciation allowances for newly constructed private rental housing):
- (h) Section 115 (which relates to additional depreciation allowances on certain capital expenditure in relation to fishing boats): 35

- (i) Section 116 (which relates to depreciation allowances for capitalised demolition costs and residual values of certain buildings used as export slaughterhouses and packing houses):
- 5 (j) Section 118 (which contains general provisions relating to investment allowances):

*Struck Out*

- (k) Section 119 (which relates to regional investment allowances on certain plant and machinery):
- 10 (l) Section 120 (which relates to investment allowances on new manufacturing plant and machinery used for export):
- (m) Section 121 (which relates to investment allowances on new plant and machinery pursuant to industrial development plans):
- 15

- (n) Section 122 (which relates to investment allowances on plant and machinery for use for farming or agricultural purposes):
- (o) Section 123 (which relates to investment allowances on fishing boats and certain fishing plant and machinery):
- 20 (p) Section 125 (which relates to certain expenditure relating to energy conservation):
- (q) The Third, Fifth, and Sixth Schedules.

25

*Struck Out*

(2) This section shall apply with respect to the tax on income derived in the 1993-94 income year and subsequent years.

**17. Amendments and repeals consequential on sections 13 to 16—**(1) The principal Act is hereby amended in the manner indicated in the **Second Schedule** to this Act.

30

(2) The enactments specified in the first column of the **Third Schedule** to this Act are hereby amended by repealing the provisions specified in the second column of that Schedule.

(3) This section shall apply with respect to the tax on income derived in the 1993-94 income year and subsequent years.

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*New*

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

5

[Clauses 18 to 46 of the **Taxation Reform Bill (No. 5) (173-1)**, as introduced, are now clauses 18 to 46 of the **Taxation Reform Bill (No. 5) (173-2)**.]

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

10

*Struck Out*

(2) This section shall apply with respect to the tax on income derived in the 1993-94 income year and subsequent years.

15

[Clauses 48 to 68 of the **Taxation Reform Bill (No. 5) (173-1)**, as introduced, are now clauses 48 to 68 of the **Taxation Reform Bill (No. 5) (173-2)**.]

20



**SCHEDULES**

*Struck Out*

**FIRST SCHEDULE**

NEW SCHEDULES ADDED TO INCOME TAX ACT 1976 **Section 45 (1)**

**“TWENTY-FIRST SCHEDULE**

**Sections 108B (1) (b),  
108c (4), and 108E (3)**

**“BANDED RATES OF DEPRECIATION**

Straight Line Depreciation Rate	Diminishing Value Equivalent
1	not available
2	not available
3	not available
4	5
5	7
7.5	11
10	15
12.5	20
15	24
20	32
25	40
33.3	53
50	not available
100	not available

*Struck Out*FIRST SCHEDULE—*continued*NEW SCHEDULES ADDED TO INCOME TAX ACT 1976—*continued*

## “TWENTY-SECOND SCHEDULE

Sections 108B (1) (b), 108D (3)

DIMINISHING VALUE EQUIVALENTS OF STRAIGHT LINE RATES OF  
DEPRECIATION

Straight Line Depreciation Rate	Diminishing Value Equivalent
1	not available
2	not available
3	not available
4	5
4.5	6
5	7
5.5	8
6	9
6.5	10
7	10.5
7.5	11
8	12
8.5	13
9	13.5
9.5	14
10	15
10.5	16
11	17
11.5	18
12	19
12.5	20
13	21
14	22
14.5	23
15	24
15.5	25
16	25.5
16.5	26
17	27
17.5	28
18	29
19	30
19.5	31
20	32
20.5	33
21	33.5
21.5	34

*Struck Out*FIRST SCHEDULE—*continued*NEW SCHEDULES ADDED TO INCOME TAX ACT 1976—*continued*“TWENTY-SECOND SCHEDULE—*continued*”DIMINISHING VALUE EQUIVALENTS OF STRAIGHT LINE RATES OF  
DEPRECIATION—*continued*

Straight Line Depreciation Rate	Diminishing Value Equivalent
22	35
22.5	36
23	37
24	38
24.5	39
25	40
25.5	41
26	41.5
26.5	42
27	43
27.5	44
28	45
29	46
29.5	47
30	48
30.5	49
31	49.5
31.5	50
32	51
32.5	52
33.3	53
34	54
34.5	55
35	56
35.5	57
36	57.5
36.5	58
37	59
37.5	60
38	61
39	62
39.5	63
40	64
40.5	65
41	65.5
41.5	66
42	67
42.5	68

*Struck Out*FIRST SCHEDULE—*continued*NEW SCHEDULES ADDED TO INCOME TAX ACT 1976—*continued*“TWENTY-SECOND SCHEDULE—*continued*”DIMINISHING VALUE EQUIVALENTS OF STRAIGHT LINE RATES OF  
DEPRECIATION—*continued*

Straight Line Depreciation Rate	Diminishing Value Equivalent
43	69
44	70
44.5	71
45	72
45.5	73
46	73.5
46.5	74
47	75
47.5	76
48	77
49	78
49.5	79
50 and above	not available

*New*

**FIRST SCHEDULE**

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

**Section 47**  
**Section 107A (1)**

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

—  
"TWENTY-SECOND SCHEDULE  
DEPRECIABLE INTANGIBLE PROPERTY

**Section 107A (1)**

1. The right to use a copyright.
  2. The right to use a design or model, plan, secret formula or process, or other like property right.
  3. A patent or the right to use a patent.
  4. The right to use land.
  5. The right to use plant or machinery.
  6. The copyright in software, the right to use the copyright in software, or the right to use software.
  7. The right to use a trademark.
-

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

## "TWENTY-THIRD SCHEDULE

Sections 108c (4),  
108e (3)

## "BANDED RATES OF DEPRECIATION

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

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

"TWENTY-FOURTH SCHEDULE

Section 108D (3)

STRAIGHT LINE EQUIVALENTS OF DIMINISHING VALUE  
RATES OF DEPRECIATION

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

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

Diminishing Value Depreciation Rate	Straight Line Equivalent
30	21
31	22
32	22.5
32.5	23
33	24
34	24.5
34.5	25
35	25.5
36	26
37	27
38	27.5
39	28
39.5	29
40	30
41	31
42	32
43	32.5
44	33
45	33.5
45.5	34
46	34.5
46.5	35
47	35.5
47.5	36
48	36.5
48.5	37
49	39
50	40
50.5	41
51	42
52	43
53	44
54	45
55	45.5
56	46
57	47
58	47.5
60	48



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

Diminishing Value Depreciation Rate	Straight Line Equivalent
61	49
62	50
63	51
63.5	63.5
64	64
65	65
66	66
67	67
68	68
69	69
70	70
71	71
72	72
73	73
74	74
75	75
76	76
77	77
78	78
79	79
80	80
81	81
82	82
100	100

## Struck Out

## Section 17 (1)

## SECOND SCHEDULE

AMENDMENTS TO INCOME TAX ACT 1976 CONSEQUENTIAL ON  
SECTIONS 13 TO 16 OF THIS ACT

Provision of Principal Act Amended	Amendment
Section 36 . . . . . Section 74 (as substituted by section 4 of the Income Tax Amendment Act (No. 4) 1986)	<p>By omitting paragraph (g).</p> <p>By omitting from subsection (4)(b) the expression "operations; and", and substituting the expression "operations,—".</p> <p>By repealing subsection (4)(c).</p> <p>By omitting from subsection (4) all the words after paragraph (c) (as so repealed), and substituting the following words:</p> <p>"the person who carries on that forestry business shall deduct an amount on account of depreciation in accordance with sections 107A to 108H of this Act (but subject to sections 111A, 117, and 168 of this Act) as if that plant or machinery were depreciable property within the meaning of section 107A of this Act".</p>
Section 94 . . . . .	<p>By repealing paragraph (a) of the definition of the term "qualifying expenditure" in subsection (1) (as inserted by section 14 (1) of the Income Tax Amendment Act 1986), and substituting the following paragraph:</p> <p>"(a) In acquiring or installing any farming or agricultural plant or machinery for use wholly in a farming or agricultural business carried on by the taxpayer on land in New Zealand, not being plant or machinery of the following kinds:</p> <p>"(i) Plant or machinery that is for use by the taxpayer, primarily and principally and directly, in performing services for any other person on any land that is used by that person for the purposes of any farming or agricultural</p>

*Struck Out*SECOND SCHEDULE—*continued*AMENDMENTS TO INCOME TAX ACT 1976 CONSEQUENTIAL ON  
SECTIONS 13 TO 16 OF THIS ACT—*continued*

Provision of Principal Act Amended	Amendment
Section 94— <i>continued</i>	<p>business carried on in New Zealand:</p> <p>“(ii) Plant or machinery that is for use by the taxpayer, primarily and principally and directly, in and for the purposes of—</p> <p>“(A) The cartage of livestock; or</p> <p>“(B) The cartage of fertiliser or lime to any farming property or the spreading of fertiliser or lime on the land; or</p> <p>“(C) The loading of fertiliser or lime into agricultural aerial work aircraft; or</p> <p>“(D) The carrying of a vehicle designed and used exclusively for loading fertiliser or lime into agricultural aerial work aircraft and for carrying in a permanently attached tank aviation fuel for use in agricultural aerial work aircraft, and for no other purpose; or</p> <p>“(E) The cartage of goods to and from any farming property:</p> <p>“(iii) Any motorcar as defined in section 2 (1) of the Transport Act 1962, not being any utility-type four-wheeled drive vehicle which, in the</p>

*Struck Out*SECOND SCHEDULE—*continued*AMENDMENTS TO INCOME TAX ACT 1976 CONSEQUENTIAL ON  
SECTIONS 13 TO 16 OF THIS ACT—*continued*

Provision of Principal Act Amended	Amendment
Section 94— <i>continued</i>	<p>opinion of the Commissioner, is used primarily and principally for farming or agricultural purposes:</p> <p>“(iv) Cooking appliances, or other plant or machinery for use or in connection with the preparation of food or drink (whether for consumption on the premises where it is prepared or elsewhere) in, or in premises occupied in connection with, catering establishments, kitchens, or cookhouses, or establishments similar to any of those establishments:</p> <p>“(v) Plant or machinery of a kind ordinarily used for office work:</p> <p>“(vi) Containers or other articles in or on which goods are to be delivered:</p> <p>“(vii) Plant or machinery for use in the production of electric current or hydraulic power, being production for purposes other than use by the taxpayer primarily and principally for the purposes of the use of other plant or machinery to which this section applies; or”.</p> <p>By repealing subsection (10) (as inserted by section 14 (5) of the Income Tax Amendment Act 1986), and substituting the following subsections:</p> <p>“(10) For the purposes of this section, where in any income year in which any qualifying expenditure (being</p>

*Struck Out*

SECOND SCHEDULE— <i>continued</i>	
AMENDMENTS TO INCOME TAX ACT 1976 CONSEQUENTIAL ON SECTIONS 13 TO 16 OF THIS ACT— <i>continued</i>	
Provision of Principal Act Amended	Amendment
Section 94— <i>continued</i>	<p>expenditure of a capital nature) is incurred by any person in acquiring, erecting, or extending a fodder storage building (that person being referred to in this subsection as the transferor) that building is transferred to any other person (in this subsection referred to as the transferee) in accordance with a matrimonial agreement,—</p> <p>“(a) The transferee shall be deemed to have acquired, erected, or extended that building on the date on which it was acquired, erected, or extended by the transferor:</p> <p>“(b) That building shall, where it was new when it was acquired, erected, 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:</p> <p>“(c) The transferee shall be deemed to have incurred expenditure of a capital nature in acquiring, erecting, or extending that building 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 erecting or extending of that building:</p> <p>“(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 erecting or extending that building.</p>

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SECOND SCHEDULE—*continued*AMENDMENTS TO INCOME TAX ACT 1976 CONSEQUENTIAL ON  
SECTIONS 13 TO 16 OF THIS ACT—*continued*

Provision of Principal Act Amended	Amendment
Section 94— <i>continued</i>	<p>“(10A) Where any person (referred to in this subsection as the transferor) has been allowed a deduction under this section in respect of the cost of any fodder storage building, and the building is transferred to any other person (in this subsection referred to as the transferee) in accordance with a matrimonial agreement,—</p> <p>“(a) The transferor shall be deemed to have disposed of that building otherwise than for valuable consideration:</p> <p>“(b) The transferee shall be deemed to have acquired that building otherwise than for valuable consideration:</p> <p>“(c) Where the building is sold or otherwise disposed of by the transferee within 5 years from the date of its acquisition by the transferor, the amount derived by the transferee from the sale or other disposal shall be deemed to be assessable income derived by the transferee in the income year in which the building is so sold or otherwise disposed of:</p> <p>“Provided that in no case shall the amount which under this paragraph is deemed to be assessable income exceed the lesser of—</p> <p>“(i) The cost of the building (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); and</p>

*Struck Out*SECOND SCHEDULE—*continued*AMENDMENTS TO INCOME TAX ACT 1976 CONSEQUENTIAL ON  
SECTIONS 13 TO 16 OF THIS ACT—*continued*

Provision of Principal Act Amended	Amendment
Section 94— <i>continued</i>	“(ii) The amount of the deduction allowed under this section in respect of the cost of the building.”
Section 106B (as substituted by section 7 of the Income Tax Amendment Act (No. 3) 1990)	By omitting the word “and” at the end of subsection (1) (a). By repealing subsection (1) (b). By omitting the word “and” at the end of section 3 (a). By repealing subsection (3) (b).
Section 108i (as so renumbered by section 14 of this Act and as originally inserted by section 17 (1) of the Income Tax Amendment Act (No. 2) 1992)	By omitting from the definition of the term “qualifying asset” in subsection (1) the words “, in the exercise of the Commissioner’s discretion under section 108 of this Act.” By adding to the end of that definition the words “under section 108 of this Act”.
Section 111A (as inserted by section 54 (1) of the Income Tax Amendment Act (No. 3) 1983)	By omitting the expression “, sections 108 to 110, and sections 112 to 116”, and substituting the expression “and sections 107A to 110”.
Section 113A (as inserted by section 17 of the Income Tax Amendment Act (No. 2) 1977)	By inserting, after subsection (1), the following subsection: “(1A) This section shall not, in respect of the 1993-94 income year and any subsequent year, apply to any depreciable property within the meaning of section 107A of this Act unless that property is excluded depreciable property within the meaning of that section.” By omitting from subsection (2) (d) the words “depreciation is not allowed under section 108 of this Act”, and substituting the words “was not, in respect of the 1992-93 income year or any earlier relevant year, allowed under section 108 of this Act as then in force”. By inserting in subsection (2) (e), after the expression “section 108 of this Act”, the

## Struck Out

SECOND SCHEDULE— <i>continued</i>	
AMENDMENTS TO INCOME TAX ACT 1976 CONSEQUENTIAL ON SECTIONS 13 TO 16 OF THIS ACT— <i>continued</i>	
Provision of Principal Act Amended	Amendment
Section 113A (as inserted by section 17 of the Income Tax Amendment Act (No. 2) 1977)— <i>continued</i>	words “for the 1992–93 income or any earlier relevant year”.
Section 131 .. ..	By repealing paragraph (a).
Section 144 (as substituted by section 12 (1) of the Income Tax Amendment Act (No. 3) 1986)	By omitting from subsection (i) (b) the words “(being an asset to which the provisions of section 113 of this Act do not apply)”.
Section 169 .. ..	By repealing subsection (3A) (as inserted by section 38 of the Income Tax Amendment Act 1980).
Section 199 .. ..	By repealing subsection (4). By repealing subsection (4) (b) (as amended by section 25 of the Income Tax Amendment Act 1979 and section 25 (2) (e) of the Income Tax Amendment Act (No. 3) 1983).



THIRD SCHEDULE  
CONSEQUENTIAL REPEALS

Section 17 (2)

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