

Reference Notes

Taxation (Annual Rates for 2016-17, Closely Held Companies, and Remedial Matters) Act 2017.

Assented 31 March 2017

Look Through Companies

Look Through Companies (LTC) Eligibility

- Beneficiaries receiving any distribution (not just beneficiary LTC income) from a shareholding trust can now be counted as LTC owners.
- An LTC can lose LTC eligibility if a trust shareholder makes a distribution to a corporate beneficiary.
- Charitable trusts or Maori authorities cannot be shareholders of LTC's.
- Foreign income earned by a foreign controlled LTC cannot exceed the greater of \$10K or 20% of gross income.

Look Through Company Entry Tax

- Change from calculating LTC entry tax from applying company tax rate to company reserves to deeming company reserves to be a dividend to shareholders – effect is to apply shareholder tax rates to company reserves on transformation into an LTC. For a QC converting to an LTC, only the amount of reserves that would be a fully imputed dividend is taxable on conversion – as this is all that would be taxable to a QC shareholder were the QC to liquidate.

LTC Deduction Limitation Rule

- Removal of rule that limited shareholder deductions through an LTC to the amount at economic risk. The deduction limitation rule remains for LTC's that are part of a partnership or joint venture.

Credit Impairment on Exit from LTC Regime

- Retrospective rule to bring remission income to LTC shareholders, in their capacity as shareholders, on exit from the LTC regime - if and to the extent that the LTC was insolvent and unable to repay its financial arrangement debts. This would include loans from associated persons - unless they were guaranteed by the shareholders.

Self Remission

- Retrospective relief is given from taxation in a person's capacity as a shareholder or partner where the shareholder or partner is also the person remitting the debt. This operates by way of facilitating a base price adjustment deduction to the shareholder or partner on their loan to the LTC or partnership - to offset the remittance income that is attributed to them through the remittance of LTC or partnership debt.

Qualifying Companies – Shareholder Continuity Test Introduced

- QC regime being retained but eventually phased out – existing QC's will lose QC status where there is not at least a 50% continuity of shareholding as from March 2017. Transfers through property relationship agreements or arising on death can be ignored, as can transfers between close relatives. For this purpose "close relative" is defined as a spouse, civil union partner or de

facto partner of the person or a person who is within the second degree of relationship to the person – so will include, for example, a share transfer to a sibling.

Ex Qualifying Companies can Benefit from Inter-corporate Dividend Exemption

- CW 14 will only act to deny an ex qualifying company the benefit of the section CW 10 exemption to tax on dividends from a 100% owned company if the dividend is received within 7 years of being a QC and the ex QC had paid an unimputed dividend whilst it was a QC.

Associated Party Capital Gain Amounts on Company Liquidation

- Associated party capital gains will now only be an issue on liquidation where the underlying transaction was with another company that is at least 85% commonly owned and where the asset at issue remains at least 85% directly or indirectly commonly owned by the vendor company at the time the vendor company liquidates.

DWT on Dividends paid to Companies and on Combined Cash and Non-Cash Dividends

- A company may elect not to deduct DWT from dividends paid to corporate shareholders.
- A cash and a non-cash dividend may be amalgamated for the purpose of calculating DWT providing the cash dividend amount is equal to or greater than the DWT on the combined dividend. DWT on a non-cash dividend is otherwise required to be calculated on a grossed-up basis.

Fully Imputed Dividends can be Treated as Paid at Start of Year for Overdrawn Current Account Purposes

- Amendment to sections CD 39(9) and RD 36(2)(b) to allow a fully imputed dividend to be treated as credited to a shareholder loan balance from the start of the year if fully imputed. There is no longer a requirement that the dividend not be subject to DWT before it can be treated as so credited. The dividend still needs to be taxable to the shareholder during the year. Thus, it must be declared and credited to the shareholder before year end – with DWT paid as required at that point.

PAYE and Shareholder-Employees

- Shareholder-employees of close companies who receive both regular salary or wages throughout the year and variable amounts of other employment income are able to elect to split their income so that the base salary is subject to PAYE and the variable amount is paid out before tax. A shareholder-employee who so elects is bound to the election for 3 years. This prevents taxpayers from switching between PAYE and non-PAYE year to year to gain provisional tax deferral.

NRWT – Payable on Accrued Related Party Interest

- NRWT is payable on interest arising to related parties at or around the same time that the interest is deductible to the payer under the financial arrangement rules.
- Applies for a year if there was at least \$40K incurred on related party interest in the previous year and the total interest paid under the new rules to the end of the current year is at least 90% of the total interest accrued under the new rules to the end of the previous year.
- The first year of application includes a wash up of accrued interest to that point. This brings in all accrued but unpaid interest – going back to when the arrangement was originally entered into, not just back to when the new rules took effect. To avoid this sufficient interest can be paid under

the new rules so as to stay within the 90% test - which only takes into account the difference between interest paid and interest accrued since the rules came into effect.

- In order to be caught by the accrued NRWT rules the financial arrangement must be one that provides funds to the associated borrower. This is an undefined test but is intended to exclude the likes of futures contracts and swaps.

NRWT and Approved Issuer Levy – Widening of Associated Transactions to Include Indirect Associated Funding

- Back to back funding arrangements and collaborative arrangements between lenders not individually associated are treated as associated lending arrangements – both for the purposes of applying the above accrual based withholding tax rules and for the purpose of determining qualification for Approved Issuer Levy. These rules adopt similar concepts of *indirect associated party lending* as have been adopted under the thin capitalisation rules.

Tightening of NRWT Rules Around Branches

- Changes to bring into the NRWT rules:
 - Loans to a NZ resident with an offshore branch where that offshore branch loans funds to NZ residents. There is a 5 year grandparenting exemption for existing funding arrangements.
 - Loans from a non-resident with a NZ branch unless the interest is derived by the NZ branch of the non-resident. There is an exemption to this for loans to NZ residents by a registered bank engaged in business in NZ. This is mainly to minimise the need for NRWT to be paid on the likes of mortgages borrowed through an offshore office of a bank to purchase an offshore property. There is a 5 year grandparenting exemption for loans from an un-associated lender with a NZ branch and for certain securitisation vehicles the core business of which is the borrowing of funds and on-lending to NZ residents.
 - Notional loans between a NZ branch of a bank and its offshore head office. This change imposes AIL or NRWT on interest incurred by a non resident bank that is not sourced in NZ but which is allocated to the NZ branch operations for accounting and taxation profit calculation purposes. Payable within 3 months of year end (to coincide with financial reporting deadline) with a 2 year grandparenting period for existing arrangements.

GST Input Tax can be Claimed on Funding Costs

- New section 20H - GST input tax can be claimed by GST registered entities for costs incurred in raising, paying or varying debt or equity funding where the funding is to be used in the taxable activity.

Large Entity and Industry Agreements on GST Adjustment Basis

- New 20(EB) and 21(4B) codifying an option for registered persons with more than \$24M turnover, or industry bodies, to apply to the CIR for an agreement on apportionment and/or on-going GST adjustment methodology.

Second Hand Goods Claim for Manufactured Fine Metal Product

- Second hand goods input tax can now be claimed for goods composed of gold, silver or platinum and which are of a kind manufactured for sale to the public.

GST Zero Rating Services that are about changing the Legal Nature or Ownership of land

- Change to paras (e) and (k) of 11A to include services that are intended to enable or assist a change in the physical condition, or ownership or other legal status of land. Services become zero rated if it is offshore land and taxable if it is land in NZ. Main implication is legal, real estate and architect services etc – i.e. because they are directly about changing the condition or ownership of the land.

Zero Rating of Land – Periodic lease payments, Lease surrender arrangements and Non profit bodies

- Test for excluding commercial leases from zero rating is changed to a focus on periodic payments rather than periodic supply. The lease only becomes zero rated once (i.e. not retrospectively) a non-periodic payment(s) are made that exceeds 25% of amounts payable under the lease.
- Agreeing to surrender a lease under an arrangement facilitating the grant of another lease to a new lessee is now compulsory zero rated (new 11(8D)(c)). This is intended to also catch a supply by an outgoing lessee by way of facilitating the novation of the lease to a new tenant.
- Supply to a non profit is deemed to be for the purpose of making taxable supplies if not to be used for making exempt supplies – to enable zero rating of acquisitions of land for non-profits.

Concessions for Adoption of 6 Month GST Filing Period

- Adoption of 6 monthly returns is made a self assessment.
- 15(2)(b) added giving the ability to maintain 6 monthly GST registration if supplies exceed \$500K threshold but have a 6 month long seasonal business with the season ending within one month of year end and have not relied on this to be a 6 monthly filer in the last 2 years.
- If already a 6 monthly filer can remain 6 monthly even if likely will exceed \$500K turnover in next 12 months providing did not rely on this exception for the previous 12 month period.

GST Registration of Non Resident Suppliers

- Clarify that to qualify the non-resident's existing (i.e. non-resident) activity must not involve providing services that will be received in NZ by someone other than for the purpose of them making taxable or exempt supplies, and that they do not intend to make a taxable supply in NZ (or a supply that would be a taxable supply if they were registered) to an unregistered person in NZ.
- Altered so a non-resident can include customs GST paid when looking to meet the \$500 minimum GST refund test before a non-resident can apply for non-resident registration. Customs GST is not refundable to a Non-resident supplier as the goods are deemed to be supplied to the ultimate recipient in NZ per section 20(3LC).
- Separate branches of non-resident entities can be recognised so that one branch can qualify for GST non-resident registration when another branch is operating as a GST registered person in NZ.
- Clarification re no bank account required to register for non-resident GST.

GST Remote Services

- Ensures that services (even if performed in NZ) that arrange the provision of off-shore performed remote services are zero rated - providing the offshore provided remote services themselves are not provided to non registered NZ resident purchasers.
- New rule to ensure that when a supply of remote services is made by a GST-registered New Zealand-resident supplier to a resident consumer through a non-resident marketplace it is treated

as two separate supplies – so that the supply from the underlying NZ resident supplier to the operator of the marketplace is zero-rated. This avoid the offshore market place having to claim back the GST in its 'offshore market place' GST return.

GST - Goods or Services Provided in relation to Boats to be Exported

- Supplies of goods that are incorporated into, or are consumed as part of a process of modifying boats or aircraft that are to be exported under their own power for or by their owner are able to be zero-rated. Similarly, services provided directly in connection with these boats or aircraft are also able to be zero-rated.
- Extension of the time for exporting by owner beyond standard 60 days if extension is required because of work being done on the boat or aircraft.

GST Grouping includes Limited Partnerships

- Section 55(8) now enables limited partnerships to be grouped with companies or other partnerships for GST purposes providing there is common control.

Entertainment Expense Adjustment must be Grossed Up

- Entertainment expense adjustments are changed to 15% of the non deductible amount for income tax purposes, not 3/23 of that non deductible amount.

Horse or Greyhound Race Winnings

- Codification of the practice of treating prize winnings as consideration for the provision of goods or services.

Bodies Corporate

- Extension of Savings provision to 3 November 2015 re Body Corporate changes.

Change in Second Hand Goods Supply

- New section 25AB - A price or other change in a second hand goods supply (similar to a credit note for a taxable supply), that means that excess input tax has been claimed, results in deemed output tax payable in the period the change arose.

Refunds of GST for clear mistakes or oversight

- Refunds for up to 8 years for mistakes or oversights in original return (previously only 8 years for errors or oversights in relation to insufficient refunds being paid or to incorrect re-assessments being made).

Unknown Consideration

- Supplies are treated as separate supplies to the extent that consideration is only partly identified.

Opt Out for Purchaser Agency

- Agents and principles for a purchase can opt out of the agency rule if they do so in writing – to the effect that there are two supplies - agent buying and agent selling to principal (Note similar opt out for a selling agency in place since 2013).

Sale in Satisfaction of Debt

- Codify position that if debtor provides incorrect information re GST on a sale to a person selling under a security interest, then the debtor is themselves liable for the consequently unpaid GST.

Financial Services on De-Registration

- Clarify that financial services held on deregistration, such as debtors, do not give rise to GST.

Financial Options

- Amendment to ensure that the transfer of ownership of a financial option or payment of an amount arising under a financial option is also treated as a financial service.

De Minimis Rule and Private Adjustments

- Clarified that the 95% de minimis rule in 30(3D) is only about not having to apportion if you make low exempt supplies – not low private use.

Clarification of Nominal Supply Value for Deemed Supplies of Zero Rated Land

- 20(3J)(a)(iii) clarified so that the amount calculated by multiplying the nominal GST component of the consideration for the supply of land by the percentage of non-taxable use is treated as output tax under section 20(4).

Clarification of Liability for Group GST post Group Exit

- Section 57(3) clarified to make it clear that members exiting a GST group remain liable for group GST arising pre-exit.

Kaikoura Earthquakes – Depreciation Rollover

- Depreciation clawback from Kaikoura earthquake insurance proceeds can be rolled over to new assets.
- Insured assets that are uneconomic to repair are treated as disposed for insurance proceeds and reacquired for nil consideration. This is to align the treatment with assets that are rendered useless by the earthquakes – i.e. taxation is limited to depreciation recovery with an option to rollover recover income.

Economic Group Debt Remission

- Principle is the removal of debt remission income where there is no economic gain. This is done through EW 46C by way of deeming the debt to be repaid. This means that any historical bad debt write-offs by the creditor will be treated as recovered. Qualifying situations are 100% company groups and in other situations where the creditor has an ownership interest in the debtor (company, partnership, LTC) that is proportionate to the amount of debt being remitted. An owner/creditor can be a trust.
- Creditors with natural love and affection for each other can group as a single creditor to apply the proportionality test (which may smooth out proportionality). A family trust may be included in a single creditor group only if the amount it remits in proportion to its ownership is less than the amount the total group remits in proportion to its ownership. The function of this appears to be to prevent a single creditor group effecting a net wealth transfer to the trust tax free.
- Bad debt deductions for accrued interest on associated person loans can no longer be claimed. Debt includes accrued interest under the economic remittance rules. As such, historical bad debt

claims will be deemed recovered if the economic debt remission rule subsequently applies to the debt.

- Under sections CD 43(6B)-(6D) Available Subscribed Capital (ASC) is deemed to arise to debtor companies (being the amount of the debt it remitted) and to companies between the debtor and creditor (being the amount remitted to the debtor times the inter-posed company's non-looked through shareholding percentage in the debtor company).
- ASC is not deemed to arise under 100% group company debt remittance. The rationale for this is that a 100% group can easily actually capitalise the debt and create ASC in the normal manner if it wanted to (this assumes that the existence of the economic debt remission rules means that actual capitalisation of debt within an economic group will no longer be considered tax avoidance). The exception to this exclusion is where the creditor company is non-resident. In this situation ASC is deemed to arise. The rationale for this is not entirely clear but it is presumably because there is no 100% group dividend exemption for cross border distributions and it may not be so easy for debt to be capitalised cross border without complications.
- Under section DV 18B the cost base to a shareholder of shares in a company that has had ASC deemed to arise under section CD 43(6B)-(6D) is deemed to be increased by the amount of the deemed ASC. This presumably reflects that a company attaining deemed ASC has attained additional capacity to distribute capital tax free to its shareholders - and as such its shareholders need to have the cost base of their share investment increased so that the capital gain amount on the shareholding is reduced. This leaves the shareholders in the same tax position re distributions as they were without the deemed ASC.
- There is no deemed ASC on 100% NZ group company debt remissions. As such, there is no need to compensate with a deemed increase in the cost base of shares that are held in debtor companies that have received deemed ASC. However, in some situations it might be possible to argue that a debtor company receives a capital gain on a debt remission transaction whilst companies with shareholding interests (and that are not the remitting creditor company) have not incurred a capital loss. This appears to be the basis for the rule in section CD 44. This provides that capital gain amounts do not arise to a debtor where the deemed ASC rule, and thus the rule increasing share cost in DV 18B, do not apply.
- Amendment to section CD 5(2) provides that debt forgiven by a company is not a dividend to the extent that it is a 100% group remission under section EW 46C. This explicit exclusion from the dividend rules for economic debt remission is not extended to economic group debt remittance effected outside of a 100% group environment. Care will thus be needed in these cases to ensure that dividend income is not deemed to arise.

Associated Guarantees

- New provisions in section EW 49B preventing deductions under the financial arrangement rules being claimed for payments made by guarantors on associated person debt. This is effected by treating guarantee payments made by an associated guarantor as an interest free loan to the debtor which the debtor applies to repay the creditor.

Imputation Credit Transfers with Group Loss Offsets

- When losses are offset between commonly owned companies the profit company can find itself with unimputed reserves and the loss company can find itself with imputation credits but no reserves. To redress this new imputation credit provisions have been introduced (significantly, sections OB 83 and OB 84) that enable a loss company to elect for imputation credits to be

transferred to the profit company. The imputation credits can be transferred from a company within the same commonly owned group that has transferred its loss to the profit company (the loss company) or from a company within the same commonly owned group that has an ownership interest of at least 66 percent in the profit company. The credits must be transferred to the profit company within the 4 year period commencing from the end of the tax loss year. The profit company must pay a dividend and attach the transferred imputation credits to the dividend in the year that the transfer is made.

- In most instances the imputation issue can be rectified without any inequity between minority and majority shareholders by:
 - subventing 28% of the tax losses and offsetting 72%; and
 - transferring imputation credits equal to 28% of the tax losses utilised to the profit company.

The majority shareholder is compensated for the use of the losses through the subvention of 28% of the losses utilised by the profit company. The profit company is able to fully impute a distribution of the offset/subvented profits. The minority shareholder is not tax disadvantaged by the subvention payment over a tax payment and the majority shareholder receives back from the profit company sufficient imputation credits to cover its share of the profit company's profits.

Tax Losses and other Matters on Discharge from Bankruptcy

- Tax losses of an insolvent individual who is either discharged from bankruptcy or fully released from provable debts under Part 5 (not including subpart 1) of the Insolvency Act 2006 are cancelled. Previously tax losses of a bankrupt that were not otherwise utilised in bankruptcy, such as losses set off against shortfall penalties or against income arising from debt remission, could be carried forward after discharge.
- Revenue account property of the bankrupt that vests in the Official Assignee is treated as transferred to the Official Assignee at market value (FC 10(2)) and any un-deducted cost of the revenue account property is transferred over to the Official Assignee (FA 10(3)). Similarly, depreciable property transferred to the Official Assignee is deemed transferred at tax book value (FC 10(4)). Other unallocated deductions, such as under DO 4, are also transferred over to the Official Assignee.
- Clarified that a bankrupt, if not a non-filer, must return personal services income in tax returns during bankruptcy - notwithstanding the vesting of the income in the Official Assignee.

Aircraft Engine Overhaul Expenses

- Withdrawal of historical IRD technical ruling allowing aircraft overhaul costs to be spread using a provision for future overhaul expenses accounting system. Overhaul costs are now spread forward based on factors, such as time or hours, to the next overhaul.
- Cost of purchasing an engine (including of purchased with the aircraft) can be deducted but is spread forward based on the anticipated overhaul cost of the engine. Adjustment must be made for second hand engines acquired to reflect lower value and the reduced factor (time or hours etc) to overhaul.
- Transfers of aircraft components from inventory or componentry stock to an aircraft overhaul are accounted for at their depreciated book value (if the component had been held as an asset and depreciated) or at its unexpired cost (if any) if it was being carried forward as stock under the accrual expenditure rules.

- Single aircraft operators may elect to adopt an ‘as incurred’ basis of overhaul costs. This means no spreading forward of overhaul costs but also no deductions for the cost of engines when they are originally acquired.
- Maintenance reserve payments made by a lessee to a lessor under an aircraft finance lease are non-deductible to the lessee (the lessee can deduct the cost of the engine acquired under the normal spreading rules). A deduction is allowed if a lessee puts more into a reserve than is required to meet actual overhaul costs and that fund excess is forfeited to the lessor on termination of the lease.
- Sections DZ 22 and EZ 23BA are transitional and reduce the depreciation factors of an aircraft by extracting the engine component and bring that engine component into the spreading rules for overhaul costs.
- DZ 23 is also transitional and brings to account (as either future revenue or as reductions in future overhaul costs) costs that have been historically deducted on a provision basis.
- On a disposal of aircraft the balance of un-deducted overhaul costs can be deducted. However, consideration for the disposal must be allocated between the engine overhaul component and the aircraft. The engine overhaul portion is taxable but not to the extent it exceeds the original engine overhaul cost.

Empowering Provisions of NZS Double Taxation Agreements

- BH 1 is amended to provide that a double taxation agreement does not over-ride the general anti-avoidance rule.

Land Tainting and Council controlled Organisations

- Carve out rule preventing council owned or controlled entities from being taxable on land sales through association to another council owned or controlled entity. This on the basis that it is unlikely that a council will be sheltering land development profits through another non-developer council owned company. Carve out excludes entities associated with independent developers or entities only associated with Council through the tripartite association test.
- Carve out from the inter-entity income tainting rule for Council controlled consolidated group companies in FM 9 if the company is also carved out of the associated party land tainting rule.
- Exemption to income tax for Councils in CW 39 is clarified so that it applies to transactions entered into with council controlled organisations owned or controlled by other councils.

Mineral Miner Loss Offsets

- The restriction on a mineral miner using the tax loss of another member from the same group has been removed as there is no policy reason why this restriction is necessary. The restriction on another member of the group using the tax loss of a mineral miner has been retained.

Mineral Miner LAQC

- A retrospective amendment is made validating past tax positions taken that attributed mining losses of a LAQC to its shareholders.

Information Sharing Agreements

- Information able to be shared under Approved Information Sharing Agreements can include non personal information as well as personal information.

Time Bar and Ancillary Taxes

- Ancillary taxes (such as PAYE, FBT, RLWT, NRWT, RWT) and Approved Issuer Levy are all brought under the time bar. Note that to qualify a return must be filed. This will require the filing of a nil return where, for example, it is considered that there are no fringe benefits to return but where the protection of the time bar is desired.
- Filing an AIL return will be deemed to set the time bar for NRWT on the same transactions.

Parental Tax Credit Abatement Formula

- Corrections to the calculation of parental entitlements abatement when the qualifying period is across income years or where circumstances change during the period.

Fringe Benefits Vouchers and Social Policy Income

- Option introduced to allow different FBT calculations for the purpose of determining the value of short term charge facilities provided to employees - for the purposes of employees determining family scheme income or adjusted net income for student loan repayments etc.

Tax Pooling

- An imputation debit arises when purchased tax pooling funds are applied to tax other than income tax. However, there was no provision for an imputation credit for the purchase of those particular pooled funds. This is corrected.
- Imputation credits are lost on a shareholding change but a second debt arose if the imputation account included purchased tax funds and these funds are subsequently on-sold. This is corrected.

Taxable Bonus Issue and ASC

- Clarification that imputation credits added to a taxable bonus issue do not qualify as new Available Subscribed Capital (ASC).

Different Investments in Same FIF – Calculation Options

- Compulsory CV will apply to an investment that meets the criteria in a particular FIF whilst you also have another investment in the same FIF that qualifies for the CV or FDR option.

Foreign Tax Credit Rules

- Rationalised to remove redundant references to double taxation treaties.
- Clarified that dividends from non-resident companies listed on the NZX have a foreign source with foreign tax credits.

Amalgamation of Social Development Information Sharing Agreements

- Various provisions for information sharing with the Ministry of Social Development are repealed and are replaced with a consolidated Approved Information Sharing Agreement under the Privacy Act.

Life Insurance Remedial Changes

- Remedial changes (following wholesale changes to the life insurance taxation regime in 2009) to interest deductibility, cost of revenue account property, fees for managing policyholder

investments, policyholder excess deductions, discounting future amounts and premium smoothing reserves.

Cost Base for Revenue Account Shares Following a Share Repurchase

- FA 4 is corrected so that it is the cost of the repurchased share that is added to the cost base of the remaining shares, not the amount paid by the company on the share that was repurchased.

Cost Base for Shares Acquired by Taxable Bonus Issue

- Shares acquired by way of a taxable bonus issue have a cost base equal to the dividend amount (excluding imputation credits) on the taxable bonus issue.

Further Income Tax on Imputation Debit

- Clarification that further income tax is charged on a year end imputation account debit only once – it is not charged again if the imputation account remains in debit to the same extent at the end of the next year.

Tax Rate when Changing Balance Dates

- Corrections to ensure that taxable income for a transitional year is properly annualised so that an appropriate average marginal tax rate for the income year is applied.

Fringe Benefit Tax – Vehicles other than Motor Vehicle

- CX19B added to correct a re-write oversight that meant it could be argued that transport in vehicles other than a motor vehicle (e.g. a truck) was a fringe benefit.

Trading Stock and Livestock Sold with Business

- Retrospective correction to the trading stock definition to ensure that livestock is treated as trading stock on the sale of a business.

Tax Losses and Amalgamation

- Section IE 3 replaced to ensure that part year calculations for an amalgamation year do not frustrate the policy intent that tax losses can be carried forward by an amalgamated company providing shareholding continuity is met and shareholder commonality for all companies amalgamating is met.

Late Tax Loss Offset Elections

- Technical correction to IC 9 to ensure that the CIR can approve late loss offset or subvention notices.

Refunds and Imputation Credit Balances

- Technical correct to ensure that refunds are limited to the ICA balance at the end of the most recent tax year.

Carry Back of Foreign Investor Tax Credits (Supplementary Dividend Regime)

- Clarified in LP 3(1) to (4) that a company can apply tax credits arising for the payment of supplementary dividends back to any year in the prior 4 years, not just back to one year in the last 4 years.

Land Sale Provisions Apply Whether Land Disposed is Whole or Part of Land Disposed

- Section CB 6(3) repealed as it was duplicated with section SB 23B.

Non Resident Passive Income and Definition of Non-Filing Taxpayer

- Amendment to clarify that a non resident is a non-filer if their only income is non resident passive income subject to a final withholding. If other income is derived the non resident is a filer.

Bad Debt Deductions

- Correction to ensure that bad debt deductions arising from limited recourse arrangements (which are normally deferred until the limited recourse arrangement has matured) can be claimed if accrual income arises in the meantime under IFRS accounting.

R&D Tax Loss Credits – Multiple R&D Loss Repayment Events, Sale of IP and Equity Transfers

- Ordering rule added to MX 9 to prevent multiple repayments of R&D Tax Loss credits if there are shareholding changes as well as liquidators appointed or the company otherwise losing eligibility.
- Clarified that repayment tax is payable in full if intellectual property is sold and there is also a breach of the shareholding criteria.
- Clarified that repayment is of an amount up to all tax loss credits for prior years if the shareholder continuity is not met.

92 Day Personal Service Income Exemption for Non Residents Narrowed

- CW 19 amended so that the exemption looks for 92 days in any 12 month period, not 92 days in a tax year. Previously it was possible to be present in NZ for more than 92 days and gain the tax exemption by straddling the visit over a balance date.

Employment Relations Authority Member Income Liable to PAYE

- Amendment to ensure that the salaries and allowances of Employment Relations Authority members are subject to PAYE

Depreciation Recovery Income

- Technical and cross reference corrections are made to ensure that the calculation of depreciation recovery income, including for partial business use assets, work as intended.

Capital Loss Amounts

- Clarified that accumulated depreciation on a building sold is not a capital loss for the purpose of calculating available capital gain amount. This does not apply for non-building assets (IRD record that a future remedial amendment is anticipated to address this).

FBT and Specified Insurance Premiums

- Codification of the general practice of treating all premiums paid on employee life insurance policies as specified insurance premiums for FBT purposes.

