

Taxation (Annual Rates and Urgent Measures) Bill

Government Bill

As reported from the Finance and Expenditure
Committee

Commentary

Recommendation

The Finance and Expenditure Committee has examined the Taxation (Annual Rates and Urgent Measures) Bill and recommends that it be passed with the amendments shown.

Background

The bill introduces measures to provide tax relief to working families via enhancements to the Working for Families package and full interest write-off for student loan borrowers present in New Zealand. The bill also sets the annual income tax rates for the 2005-06 tax year, which are unchanged from those for the 2004-05 tax year.

As part of our consideration of the bill, we examined the amendments proposed in Supplementary Order Paper 1 to add provisions necessary to allow New Zealand resident wine producers access to the Australian Wine Equalisation Tax rebate. We recommend that these amendments be included in the bill, subject to amendment as detailed below. The House referred the Supplementary Order Paper to us for our consideration so that we could consider the amendments and include them if we saw fit.

The bill was referred on 16 November 2005 with a reporting date of 5 December 2005. Given the short time for consideration of the bill, we did not call for public submissions.

We did, however, seek assurances from officials about the quality of the bill's provisions, and their consistency with each other. The bill has been independently peer reviewed to minimise the risk of further urgent remedial amendments to its provisions, or judicial review and associated litigation.

There are outstanding issues that we understand are to be addressed in the committee of the whole House. The issues relate to the way the 31 day aggregate period is referred to in new clauses 38AB(2) and 38AC(2).

Commencement date

The bill will come into force on the day on which it receives the Royal assent. The proposed changes to the family assistance abatement threshold and rate will apply to the 2006-07 and subsequent tax years. The proposed provisions for the no-interest and amnesty proposals on student loans will apply from 1 April 2006.

No interest on student loans—transitional provision

We recommend a transitional provision be inserted into the bill (new clause 16A) to give the Commissioner of Inland Revenue the discretion to grant a full interest write-off to borrowers during the period 1 April 2006 to 30 September 2006.

The need for this provision arises because the policy of abolishing interest on student loans is to be delivered as an interest write-off. Without the transitional provision, borrowers who leave New Zealand for more than one month within the first six months of the policy would not be entitled to benefit from the no-interest policy for the 1 April to 30 September 2006 period. Similarly, such a provision would allow borrowers who have been in New Zealand for a significant time (before 1 April 2006) and who leave permanently (before 1 October 2006) to be entitled to exemption from interest from 1 April 2006 until they leave the country. We agreed that the transitional provision is necessary to prevent inconsistencies in policy implementation during this period, and ensure that otherwise eligible borrowers do not miss out on their entitlements.

Amnesty for penalties on overdue student loans

We understand that the purpose of the amnesty on loan penalties is to give non-resident borrowers a fresh start in repaying their loans, where penalties for non-payment have been incurred. We are concerned that the complexities of the scheme may be difficult for some borrowers to understand. We have therefore asked the Inland Revenue Department to ensure that it provides a clear explanation of the workings of the system in any publicity regarding the amnesty.

Our understanding is that the amnesty will work as follows: while a borrower is resident in New Zealand, their compulsory repayment obligation is based on their annual income. When a borrower moves overseas, their repayments are based on a mortgage-style model. When loan repayments are overdue, the repayment obligation becomes subject to a penalty regime of two percent per month compounding, instead of seven percent per annum.

Under the new provisions, if a borrower gives an undertaking to meet all their obligations under the Student Loan Scheme Act for a two-year period, and adheres to that undertaking, penalties charged on any overdue assessments will be remitted and interest charged in their place. If a borrower remains overseas, their loan balance will be reduced, but will still be subject to interest. If a borrower returns to New Zealand, their loan will be interest free once they have lived in New Zealand for 183 days.

Supplementary Order Paper 1—Wine Equalisation Tax rebate

Supplementary Order Paper 1 contains similar provisions to Supplementary Order Paper 380, which proposes amendment to the Taxation (Depreciation, Payment Dates Alignment, FBT, and Miscellaneous Provisions) Bill. We understand Supplementary Order Paper 1 will replace Supplementary Order Paper 380.

Supplementary Order Paper 1 seeks to amend the bill to enable the Inland Revenue Department to accept applications from New Zealand wine producers for producer rebates payable by the Australian Government under the *A New Tax System (Wine Equalisation Tax) Act 1999 (Commonwealth)*, and to undertake tasks associated with the verification of claimants' entitlements to those rebates.

The paper also provides for the making of regulations on matters necessary to give effect to the agreement in force between the New

Zealand Government and the Australian Government for the avoidance of double taxation and the prevention of fiscal evasion with respect to income tax. The agreement contains provisions relating to assistance between tax administration authorities that apply to the Inland Revenue Department's role. In particular, the changes will allow the department to divulge information that would otherwise be confidential to the relevant authorities for the purposes of implementing the Australian wine producer rebates provisions.

Regulation-making powers

We asked the Regulations Review Committee for comment on the appropriateness of the regulation-making powers contained in the Supplementary Order Paper. In view of the advice we received from the Regulations Review Committee, we recommend that proposed provisions in Supplementary Order Paper 1 referring to the Official Information Act 1982 and the Privacy Act 1993 be deleted.

As introduced, proposed new section CV4(2)(a) of the Income Tax Act 2004 would allow a regulation to override any provision of the principal Act, other Inland Revenue legislation, the Official Information Act 1982 or the Privacy Act 1993. The Regulations Review Committee expressed concern that proposed new section CV4(2)(a) is a regulation-making power that authorises the amendment of primary legislation—popularly known as a Henry VIII provision. The committee advised that such provisions are undesirable as they use subordinate legislation to override an Act of Parliament.

Other matter

During our consideration of the bill, advice was sought from officials concerning the continuing high effective marginal tax rates which flow from the Family Tax Credit. Some of us therefore request that this matter be considered by the Government as part of its ongoing policy review.

Minority view—National Party

The National Party is opposed to the Taxation (Annual Rates and Urgent Measures) Bill. We believe the introduction of interest free student loans will encourage more students to borrow larger sums and to repay these loans more slowly. This will lead to substantial costs for the Crown and will result in a significant increase in overall student debt.

The National Party is also concerned about the proposed Working for Families package. This package contains high effective marginal tax rates that will act as a major deterrent for New Zealanders to increase their paid employment.

In particular, we note some New Zealanders will face effective marginal tax rates in excess of 100 percent and we note the concerns raised by Treasury in the incoming briefing note to the Minister of Finance in this regard.

We also oppose the confirmation of the annual tax rates which fail to address the fiscal drag inherent in the New Zealand personal tax code and we lament the missed opportunity to increase New Zealand's competitive position by reducing these personal taxes.

Appendix

Committee process

The Taxation (Annual Rates and Urgent Measures) Bill was referred to the committee on 16 November 2005. We did not hear evidence on the bill. Consideration took two hours and five minutes.

We received advice from the Inland Revenue Department and the Treasury. The Regulations Review Committee reported to the committee on the regulation-making powers contained in Supplementary Order Paper 1.

Committee membership

Shane Jones (Chairperson)

Gordon Copeland

Jeanette Fitzsimons

Craig Foss

Hon Mark Gosche

Hon George Hawkins

Hone Harawira

Rodney Hide

John Key

Dr Hon Lockwood Smith (Deputy Chairperson)

Paul Swain

Chris Tremain

Doug Woolerton

Key to symbols used in reprinted bill
As reported from a select committee

Struck out (unanimous)	
Subject to this Act,	Text struck out unanimously
New (unanimous)	
Subject to this Act,	Text inserted unanimously
<i>(Subject to this Act,)</i>	Words struck out unanimously
<u>Subject to this Act,</u>	Words inserted unanimously

Hon Dr Michael Cullen

Taxation (Annual Rates and Urgent Measures) Bill

Government Bill

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cl 1	Taxation (Annual Rates and Urgent Measures)	
20	New section 85J inserted 85J Disclosure of information for administration of Australian wine producer rebate	Schedule New schedule 12 of the Income Tax Act 2004

The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the **Taxation (Annual Rates and Urgent Measures) Act 2005**.
- 2 Commencement**
This Act comes into force on the date on which it receives the Royal assent.

Part 1 **Annual rates of income tax for 2005–06 tax year**

- 3 Rates of income tax for 2005–06 tax year**
 - (1) Income tax imposed by section BB 1 of the Income Tax Act 2004 must, for the 2005–06 tax year, be paid at the basic rates specified in Schedule 1 of that Act.
 - (2) The Taxation (Annual Rates of Income Tax 2004–05) Act 2004 is repealed.

Part 2 **Amendments to Income Tax Act 2004**

- 4 Income Tax Act 2004**
This Part amends the Income Tax Act 2004.

New (unanimous)

- 4B New sections CV 3 and CV 4**
After section CV 2, the following is added:

“CV 3 Australian wine producer rebate
An amount of Australian wine producer rebate derived by a New Zealand resident wine producer is income of the wine producer.

New (unanimous)

“CV 4 Regulations: Australian wine producer rebate

“Order in Council

- “(1) For the purpose of enabling the Commissioner to administer the entitlement of New Zealand resident wine producers to Australian wine producer rebates in respect of wine produced in New Zealand, the Governor-General may from time to time, by Order in Council, make regulations relating to—
- “(a) the claim by a New Zealand resident wine producer for payment of an Australian wine producer rebate in respect of wine produced in New Zealand that is sold in Australia:
 - “(b) the approval or verification of the entitlement of a New Zealand resident wine producer to a payment of an Australian wine producer rebate:
 - “(c) any matter necessary to give effect to a provision relating to Australian wine producer rebates in the agreement for the time being in force between the Government of New Zealand and the Government of Australia for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income.

“Force and effect

- “(2) An Order in Council under **subsection (1)**—
- “(a) has force and effect despite any provision in this Act or any other Inland Revenue Act:
 - “(b) may come into force on or after 1 July 2005:
 - “(c) may apply for Australian financial years commencing on or after 1 July 2005.

“Definitions

- “(3) In this section,—
- “**Australian financial year** means a year starting on and including 1 July
- “**wine** has the meaning given in section 31-1 of A New Tax System (Wine Equalisation Tax) Act 1999 (Aust), as amended from time to time, and regulations made under that Act.”

5 Calculation of subpart KD credit

- (1) In section KD 2(6),—
- (a) in paragraph (a) of the definition of **full-year abatement**,—
 - (i) “\$27,500” is replaced by “\$35,000”; and
 - (ii) “30 cents” is replaced by “20 cents”;
 - (b) in paragraph (b) of the definition of **full-year abatement**,—
 - (i) “\$27,500” is replaced by “\$35,000”; and
 - (ii) “30 cents” is replaced by “20 cents”.
- (2) **Subsection (1)** applies for the 2006–07 and subsequent tax years.

New (unanimous)**5B Definition**

In section OB 1, after the definition of **Australian imputation credit account company**, the following is inserted:

“**Australian wine producer rebate** means a producer rebate (under A New Tax System (Wine Equalisation Tax) Act 1999 (Aust), as amended from time to time, and regulations made under that Act) that relates to wine exported from New Zealand on or after 1 July 2005”.

6 Schedule 12—Amount that, for purposes of section KD 5(6), is deemed to be equivalent of an annual amount

- (1) Schedule 12 is replaced by the Schedule 12 in the **Schedule** of this Act.
- (2) **Subsection (1)** applies for the 2006–07 and subsequent tax years.

Part 3**Amendments to Student Loan Scheme Act 1992****7 Student Loan Scheme Act 1992 called principal Act in this Part**

In this **Part**, the Student Loan Scheme Act 1992¹ is called “the principal Act”.

¹ 1992 No 141

8 Interpretation

Section 2 of the principal Act is amended by repealing the definition of **total interest rate**, and substituting the following definition:

“**total interest rate** means,—

- “(a) in respect of *(the)* any tax year ending on or before **31 March 2006**, the sum of the base interest rate and the interest adjustment rate:
- “(b) in respect of each *(subsequent)* tax year ending after 31 March 2006, the rate prescribed in respect of that tax year by regulations made under section 87 in the last 6 months of the immediately preceding tax year.”

9 Borrower to advise Commissioner of absence from New Zealand

- (1) Section 37(1) of the principal Act is amended by adding the word “; and”, and also by adding the following paragraph:

“(c) any information that the Commissioner reasonably requires in order to determine whether the borrower is entitled to the full interest write-off set out in **section 38AK**.”

- (2) Section 37 of the principal Act is amended by repealing subsections (2) and (3), and substituting the following subsection:

“(2) When a borrower who is absent from New Zealand becomes aware that he or she will be absent from New Zealand for a period of more than 3 months, he or she must, as soon as practicable after becoming so aware, provide the Commissioner with the information required by **subsection (1)**.”

10 Non-resident borrower to advise Commissioner of return to New Zealand

The heading to section 38 of the principal Act is amended by omitting the words “**Non-resident borrower**”, and substituting the word “**Borrower**”.

11 New heading substituted

The principal Act is amended by omitting the heading below section 38, and substituting the heading “*Full interest write-off for borrowers present in New Zealand or granted an exemption*”.

12 New sections 38AA to 38AK inserted

The principal Act is amended by inserting, before section 38A, the following sections:

“38AA Full interest write-off for certain borrowers

“(1) A borrower is entitled to the full interest write-off set out in **section 38AK** if—

“(a) the borrower satisfies the 183-day requirement in **section 38AB**; or

“(b) the Commissioner grants an exemption to the borrower under **section 38AE** or **section 38AJ**.

“(2) The conditions in **section 38AK(2)** apply to **subsection (1)**.

“38AB 183-day requirement

“(1) A borrower satisfies the 183-day requirement if that borrower is personally present in New Zealand for a period of 183 or more consecutive days after **31 March 2006**.

“(2) For the purposes of **subsection (1)**, a borrower is treated as being personally present in New Zealand if the borrower is personally absent from New Zealand for a period, or periods in the aggregate, of 31 days or less during what would otherwise have been a period of 183 or more consecutive days that would have satisfied the 183-day requirement.

“(3) A borrower who satisfies the 183-day requirement is entitled to the full interest write-off set out in **section 38AK** for the period commencing on the first day within the 183-day period on which that person was personally present in New Zealand and, subject to **section 38AC**, for each subsequent day.

“38AC Full interest write-off ceases if borrower is personally absent from New Zealand for 184 days

“(1) A borrower (*ceases to satisfy*) who has satisfied the 183-day requirement in **section 38AB** (*if that borrower*) ceases to satisfy that requirement if he or she is personally absent from New Zealand for a period of 184 or more consecutive days (a 184-day absence).

“(2) For the purposes of **subsection (1)**, a borrower is treated as being personally absent from New Zealand if the borrower is personally present in New Zealand for a period, or periods in the aggregate, of 31 days or less during what would otherwise have been a 184-day absence.

- “(3) A borrower who has had a 184-day absence ceases to be entitled to the full interest write-off set out in **section 38AK** for the period commencing on the first day within the 184-day period on which that person was personally absent from New Zealand and, subject to **section 38AB**, for each subsequent day.
- “(4) **Subsection (3)** is subject to the Commissioner granting an exemption to a borrower under **section 38AE or section 38AJ**.

“38AD **Treatment of partial days**

For the purposes of **sections 38AB and (38AC) 38AK**, if a borrower is personally present in New Zealand for part of a day, that borrower is treated as being personally present in New Zealand for the whole of that day and not being personally absent from New Zealand for any part of that day.

“38AE **Power of Commissioner to grant exemptions to borrowers who do not satisfy 183-day requirement**

- “(1) On the application of a borrower who does not satisfy the 183-day requirement in **section 38AB**, the Commissioner may, if the Commissioner considers that it is fair and reasonable to do so, grant an exemption to the 183-day requirement to that borrower if the principal reason that the borrower does not satisfy the 183-day requirement is because—
- “(a) the borrower was personally absent from New Zealand in the service in any capacity of the Government of New Zealand; or
 - “(b) the borrower was personally absent from New Zealand because he or she was working as a volunteer or for token payment for a charitable organisation named in regulations made under this Act (**charity**); or
 - “(c) of an unexpected delay; or
 - “(d) of an unplanned personal absence; or
 - “(e) the borrower is required to be personally absent from New Zealand because of the borrower’s employment or occupation; or
 - “(f) the borrower was personally absent from New Zealand because the borrower accompanied his or her wife or husband, civil union partner, or de facto partner (**partner**) overseas.

- “(2) If the Commissioner grants an exemption under **subsection (1)**, the Commissioner must specify either—
- “(a) the start and end dates for the period for which the relevant borrower is treated as being personally present in New Zealand for the purposes of **section 38AB**; or
 - “(b) the conditions that must apply or be met in order for the relevant borrower to be treated as being personally present in New Zealand for the purposes of **section 38AB**.
- “(3) The Commissioner may grant an exemption—
- “(a) under **subsection (1)(b)** in respect of any 1 borrower for a maximum aggregate period of up to 24 months; and
 - “(b) under **subsection (1)(f)** in respect of any 1 borrower whose partner was personally absent from New Zealand because the partner was working as a volunteer or for token payment for a charity, for a maximum aggregate period of up to 24 months.
- “(4) The conditions in **section 38AF** apply to **subsection (1)(c)**.
- “(5) The conditions in **section 38AG** apply to **subsection (1)(d)**.
- “(6) The conditions in **section 38AH** apply to **subsection (1)(e)**.
- “(7) The conditions in **section 38AI** apply to **subsection (1)(f)**.
- “(8) A borrower who applies to the Commissioner under this section must supply the Commissioner with all information, and in the manner, that the Commissioner may reasonably require in order to establish whether 1 of the grounds for the grant of an exemption in **subsection (1)(a) to (f)** applies.

“38AF **Conditions to unexpected delay exemption**

An applicant under **section 38AE(1)(c)** must—

- “(a) have been a resident during the time in question; and
- “(b) provide proof—
 - “(i) of the applicant’s intended return to New Zealand; and
 - “(ii) that if the applicant had returned to New Zealand as intended, the applicant would have satisfied the 183-day requirement in **section 38AB**; and
- “(c) provide proof of the unexpected delay that resulted in the applicant not being able to return to New Zealand as intended; and

- “(d) provide proof that the unexpected delay was due to an event or to circumstances beyond the reasonable control of the applicant, like (for example)—
 - “(i) an airline strike, personal illness, or death of a family member:
 - “(ii) a fire, flood, storm, earthquake, landslide, volcanic eruption, or other act of God:
 - “(iii) an explosion or nuclear, biological, or chemical contamination:
 - “(iv) sabotage, terrorism, or an act of war (whether declared or not).

“38AG Conditions to unplanned personal absence exemption

An applicant under **section 38AE(1)(d)** must—

- “(a) have been a resident during the time in question; and
- “(b) provide proof of the duration of the applicant’s unplanned personal absence from New Zealand; and
- “(c) provide proof that the applicant’s unplanned personal absence was due to an event or to circumstances beyond the reasonable planning and control of the applicant, like (for example)—
 - “(i) the illness or death of a family member who is overseas:
 - “(ii) the applicant’s employer requiring the applicant to attend a conference overseas.

“38AH Conditions to employment or occupation absence exemption

An applicant under **section 38AE(1)(e)** must—

- “(a) have been a resident during the time in question; and
- “(b) have a permanent place of abode only in New Zealand; and
- “(c) provide proof that the applicant receives either—
 - “(i) a source deduction payment as defined in section OB 2(1) of the Income Tax Act 2004; or
 - “(ii) income from a business that has a permanent place of business in New Zealand; and
- “(d) provide proof that the majority of the applicant’s personal absences from New Zealand are because of the applicant’s employment or occupation.

“38AI Conditions to marriage, civil union, or de facto exemption

An applicant under **section 38AE(1)(f)** must—

- “(a) have been a resident during the time in question; and
- “(b) provide proof of the applicant’s relationship with his or her wife or husband, civil union partner, or de facto partner (**partner**); and
- “(c) provide proof that the applicant’s personal absence from New Zealand was because the applicant was accompanying his or her partner overseas; and
- “(d) provide proof that one of the following applies:
 - “(i) the applicant’s partner was personally absent from New Zealand—
 - “(A) in the service in any capacity of the Government of New Zealand; or
 - “(B) because he or she was working as a volunteer or for token payment for a charitable organisation named in regulations made under this Act; or
 - “(ii) the applicant’s partner satisfies the conditions in **section 38AH**; or
 - “(iii) the applicant’s partner satisfies the conditions in **section 38AJ(2)**.

“38AJ Power of Commissioner to grant exemption to borrowers undertaking post-graduate study overseas

- “(1) On the application of a borrower who does not satisfy the 183-day requirement in **section 38AB**, the Commissioner may, if the Commissioner considers that it is fair and reasonable to do so, grant an exemption to the 183-day requirement to that borrower if the principal reason that the borrower does not satisfy the 183-day requirement is that the borrower is undertaking full-time study at post-graduate level overseas.
- “(2) An applicant under **subsection (1)**—
 - “(a) must provide the Commissioner with a document from the NZQA verifying that the applicant’s post-graduate course is at post-graduate level for the purposes of this section; and
 - “(b) must provide the Commissioner with evidence from the applicant’s overseas education provider verifying that

the applicant is enrolled full-time in the post-graduate course verified by the NZQA; and

“(c) must supply the Commissioner with all other information, and in the manner, that the Commissioner may reasonably require in order to establish whether the ground for the grant of an exemption under **subsection (1)** applies.

“(3) If the Commissioner grants an exemption under **subsection (1)**, the Commissioner must specify either—

“(a) the start and end dates for the period for which the relevant borrower is treated as being personally present in New Zealand for the purposes of **section 38AB**; or

“(b) the conditions that must apply or be met in order for the relevant borrower to be treated as being personally present in New Zealand for the purposes of **section 38AB**.

“(4) In this section,—

“**NZQA** means the New Zealand Qualifications Authority established under Part 20 of the Education Act 1989

“**study at post-graduate level** means study that is assessed by the NZQA as being equivalent to levels 8, 9, or 10 on the New Zealand Register of Quality Assured Qualifications developed by the Authority under section 253(1)(c) of the Education Act 1989.

“**38AK Terms of full interest write-off**

“(1) When a borrower is entitled to a full interest write-off under **section 38AA**, the amount of interest calculated on the borrower’s loan balance for the days to which this subsection applies must be reduced to zero.

Struck out (unanimous)

“(2) **Subsection (1)**—

“(a) applies only to interest chargeable on or after **1 April 2006**; and

“(b) applies to the days on which a borrower is personally present in New Zealand in accordance with the requirements of **sections 38AB to 38AD**; and

Struck out (unanimous)

- “(c) applies to the days on which a borrower is treated as being personally present in New Zealand under **section 38AB** or **section 38AE(2)** or **section 38AJ(3)**; and
- “(d) does not apply to the days on which a borrower is personally present in New Zealand but is treated as being personally absent from New Zealand under **section 38AC**.

New (unanimous)

- “(2) **Subsection (1)**—
 - “(a) applies only to days on or after **1 April 2006** on which a borrower—
 - “(i) is personally present in New Zealand in accordance with the requirements of **sections 38AB to 38AD**; or
 - “(ii) is treated as being personally present in New Zealand under **section 38AB(2)** or **section 38AE(2)** or **section 38AJ(3)**; and
 - “(b) does not apply to the days on which a borrower is personally present in New Zealand but is treated as being personally absent from New Zealand under **section 38AC(2)**.”

13 New heading inserted

The principal Act is amended by inserting, immediately above section 38A, the heading “*Full interest write-off for certain students*”.

14 Conditions for base interest write-off

- (1) Section 41 of the principal Act is amended by adding the word “; and”, and also by adding the following paragraph:
 - “(c) a maximum aggregate of 2 tax years each in respect of any 1 borrower.”
- (2) Section 41 of the principal Act is amended by adding, as subsection (2), the following subsection:
 - “(2) **Subsection (1)(c)** applies from **31 March 2006**.”

15 New heading and sections 45A to 45D inserted

The principal Act is amended by inserting, after section 45, the following heading and sections:

“Amnesty from payment of late payment penalties

“45A Amnesty in respect of late payment penalties

“(1) The Commissioner must (~~write-off~~) write off any late payment penalties to which a borrower has become liable under section 44 (**late payment penalties**) if—

“(a) the Commissioner is satisfied that the borrower is a non-resident on **31 March 2006**; and

“(b) the borrower meets the condition in **section 45B(1)**; and

“(c) the Commissioner receives an application (in any form or manner acceptable to the Commissioner) by or on behalf of that borrower before the close of **31 March 2007**.

“(2) This section applies—

“(a) from **31 March 2006**; and

“(b) only to those late payment penalties that the borrower is already liable to pay on the date on which the Commissioner receives the borrower’s application under **subsection (1)(c)**.

“45B Conditions of amnesty

“(1) The condition that a borrower must meet for the purposes of **section 45A(1)(b)** is that the borrower must give an undertaking to the Commissioner that he or she will, for the whole of the 2 years after the date on which the Commissioner receives the borrower’s application under **section 45A(1)(c)**, meet all of his or her obligations under this Act.

“(2) In accordance with the borrower’s undertaking given under **subsection (1)**, the borrower must meet all of his or her obligations under this Act for the whole of the 2 years after the date on which the Commissioner receives the borrower’s application under **section 45A(1)(c)**.

“45C Effect of amnesty on repayment obligation and interest

“(1) If the Commissioner (~~writes-off~~) writes off late payment penalties under **section 45A(1)**, the repayment obligations on which those penalties were (~~written-off~~) written off (the **relevant**

repayment obligation) must be added to the relevant borrower's loan balance with effect from the date that the relevant repayment obligation was originally due.

- “(2) The relevant repayment obligation is subject to interest at the total interest rate that applied over the period of non-payment on the daily amount outstanding.

“45D Repayment obligation and penalties may be reinstated if amnesty condition breached

- “(1) If the Commissioner is satisfied that a borrower has breached the condition in **section 45B(2)**, the Commissioner may, at his or her discretion, reinstate so much of the late payment penalties (*written-off*) written off under **section 45A** in respect of that borrower as the Commissioner considers fair and reasonable in the circumstances.
- “(2) In order to reinstate part or all of a late payment penalty under **subsection (1)**, the Commissioner may reverse all or any part of an action that occurred under **section 45C**.
- “(3) The Commissioner must, as soon as practicable after reinstating a late payment penalty, give the borrower written notice of—
- “(a) the amount of that penalty; and
- “(b) any action taken under **subsection (2)**.”

16 Regulations

- (1) Section 87(1)(a)(ii) and (iii) of the principal Act is repealed.
- (2) Section 87(1) of the principal Act is amended by inserting, after paragraph (a), the following paragraphs:
- “(ab) specifying a formula or methodology (*by*), and other requirements (*against*), in accordance with which the following interest rates must be set or reset for the purposes of this Act:
- “(i) the base interest rate; and
- “(ii) the interest adjustment rate; and
- “(iii) the total interest rate:
- “(ac) determining, in accordance with the formula or methodology and requirements specified under **paragraph (ab)**, the following interest rates that are to apply in respect of any tax year:
- “(i) the base interest rate; and

- “(ii) the interest adjustment rate; and
“(iii) the total interest rate:”.
- (3) Section 87(1) of the principal Act is amended by inserting, after paragraph (ba), the following paragraph:
“(bb) specifying a list of charitable organisations for the purposes of **section 38AE(1)(b)**:”.
- (4) Section 87(2) and (3) of the principal Act is repealed.
- (5) Section 87(4) of the principal Act is amended by inserting, after the expression “subsection (1)(a)”, the words “or **subsection (1)(ac)**”.

New (unanimous)

16A Transitional provision for initial 183-day period

- (1) The Commissioner may at his or her discretion, if the Commissioner considers that it is fair and reasonable to do so, reduce the amount of interest calculated on an eligible borrower’s loan balance to zero for interest chargeable during some or all of the period starting on 1 April 2006 and ending on 30 September 2006.
- (2) If the Commissioner reduces the amount of interest calculated on an eligible borrower’s loan balance to zero under **subsection (1)**, the Commissioner must specify the start and end dates for the period for which the amount of interest is reduced to zero.
- (3) In this section, eligible borrower means a borrower who, during the period starting on 1 April 2006 and ending on 30 September 2006, does not satisfy and is not treated as satisfying the 183-day requirement in section 38AB of the principal Act.

Part 4

Amendments to Tax Administration Act 1994

17 Tax Administration Act 1994

This part amends the Tax Administration Act 1994.

18 Interpretation

In section 3(1), in the definition of **tax**, after paragraph (a), the following is inserted:

New (unanimous)

“(ab) for the purposes of the application of this Act in relation to a regulation made under **section CV 4** of the Income Tax Act 2004, includes an Australian wine producer rebate:”.

19 New section 4B inserted

After section 4A, the following is inserted:

“4B Application of Act in relation to Australian wine producer rebate

- “(1) This section governs the application of this Act in relation to the rights and obligations of a person under a regulation made under **section CV 4** of the Income Tax Act 2004, which relates to Australian wine producer rebates.
- “(2) This Act applies to the rights and obligations as if—
- “(a) a person’s claim for approval in respect of an Australian wine producer rebate were an application made by the person to the Commissioner for registration in respect of the administration of a tax imposed by an Inland Revenue Act:
 - “(b) a person’s claim for a payment of an Australian wine producer rebate were an application by the person to the Commissioner for a refund of a tax imposed by an Inland Revenue Act:
 - “(c) a decision concerning an entitlement of the person to a payment of an Australian wine producer rebate were a decision by the Federal Commissioner of Taxation for Australia concerning an entitlement of the person to a refund of a tax imposed by the Commonwealth of Australia:
 - “(d) a payment to the person of an Australian wine producer rebate were a refund by the Federal Commissioner of Taxation for Australia of a tax imposed by the Commonwealth of Australia.”

New (unanimous)

20 New section 85J inserted

After section 85I, the following is inserted:

**“85J Disclosure of information for administration of
Australian wine producer rebate**

- “(1) The purpose of this section is to facilitate the exchange of information between the Commissioner and the Australian Taxation Office and the New Zealand Customs Service for the purpose of administering the entitlements of New Zealand resident wine producers to Australian wine producer rebates.
- “(2) For the purposes of **subsection (1)**, the Commissioner may at any time provide all information referred to in **subsection (3)** to a person who is—
- “(a) an officer, employee, or agent of the Australian Taxation Office or the New Zealand Customs Service; and
 - “(b) authorised to receive the information by the chief executive officer of the Australian Taxation Office or the New Zealand Customs Service.
- “(3) The information that may be provided under **subsection (2)** is all information relevant to—
- “(a) the claim by a New Zealand resident wine producer for payment of an Australian wine producer rebate in respect of wine produced in New Zealand that is sold in Australia;
 - “(b) the approval or verification of the entitlement of a New Zealand resident wine producer to a payment of an Australian wine producer rebate.”

s 6 **Schedule**
New schedule 12 of the Income Tax Act 2004

s KD 5(6) **Schedule 12**
**Amount that, for purposes of section KD 5(6), is
deemed to be equivalent of an annual amount**

<i>Column 1</i>	<i>Column 2</i>
Amount that, in relation to any application for a certificate of entitlement to a credit of tax, is the annual amount	Amount that, for pur- poses of Section KD 5, is treated as being equivalent to the annual amount \$
Amount does not exceed \$35,000	35,000
Amount exceeds \$35,000 but does not exceed \$36,500	36,500
Amount exceeds \$36,500 but does not exceed \$38,000	38,000
Amount exceeds \$38,000 but does not exceed \$39,500	39,500
Amount exceeds \$39,500 but does not exceed \$41,000	41,000
Amount exceeds \$41,000 but does not exceed \$42,500	42,500
Amount exceeds \$42,500 but does not exceed \$44,000	44,000
Amount exceeds \$44,000 but does not exceed \$45,500	45,500
Amount exceeds \$45,500 but does not exceed \$47,000	47,000
Amount exceeds \$47,000 but does not exceed \$48,500	48,500
Amount exceeds \$48,500 but does not exceed \$50,000	50,000
Amount exceeds \$50,000 but does not exceed \$51,500	51,500
Amount exceeds \$51,500 but does not exceed \$53,000	53,000
Amount exceeds \$53,000 but does not exceed \$54,500	54,500
Amount exceeds \$54,500 but does not exceed \$56,000	56,000
Amount exceeds \$56,000 but does not exceed \$57,500	57,500
Amount exceeds \$57,500 but does not exceed \$59,000	59,000
Amount exceeds \$59,000 but does not exceed \$60,500	60,500
Amount exceeds \$60,500 but does not exceed \$62,000	62,000
Amount exceeds \$62,000 but does not exceed \$63,500	63,500
Amount exceeds \$63,500 but does not exceed \$65,000	65,000
Amount exceeds \$65,000 but does not exceed \$66,500	66,500
Amount exceeds \$66,500 but does not exceed \$68,000	68,000
Amount exceeds \$68,000 but does not exceed \$69,500	69,500
Amount exceeds \$69,500 but does not exceed \$71,000	71,000
Amount exceeds \$71,000 but does not exceed \$72,500	72,500
Amount exceeds \$72,500 but does not exceed \$74,000	74,000
Amount exceeds \$74,000 but does not exceed \$75,500	75,500
Amount exceeds \$75,500 but does not exceed \$77,000	77,000
Amount exceeds \$77,000 but does not exceed \$78,500	78,500
Amount exceeds \$78,500 but does not exceed \$80,000	80,000
Amount exceeds \$80,000 but does not exceed \$81,500	81,500
Amount exceeds \$81,500 but does not exceed \$83,000	83,000
Amount exceeds \$83,000 but does not exceed \$84,500	84,500
Amount exceeds \$84,500 but does not exceed \$86,000	86,000
Amount exceeds \$86,000 but does not exceed \$87,500	87,500
Amount exceeds \$87,500 but does not exceed \$89,000	89,000
Amount exceeds \$89,000 but does not exceed \$90,500	90,500
Amount exceeds \$90,500 but does not exceed \$92,000	92,000
Amount exceeds \$92,000 but does not exceed \$93,500	93,500
Amount exceeds \$93,500 but does not exceed \$95,000	95,000
Amount exceeds \$95,000 but does not exceed \$96,500	96,500

Schedule 12—continued

<i>Column 1</i>	<i>Column 2</i>
Amount that, in relation to any application for a certificate of entitlement to a credit of tax, is the annual amount	Amount that, for purposes of Section KD 5, is treated as being equivalent to the annual amount
	\$
Amount exceeds \$96,500 but does not exceed \$98,000	98,000
Amount exceeds \$98,000 but does not exceed \$99,500	99,500
Amount exceeds \$99,500 but does not exceed \$101,000	101,000
Amount exceeds \$101,000 but does not exceed \$102,500	102,500
Amount exceeds \$102,500 but does not exceed \$104,000	104,000
Amount exceeds \$104,000 but does not exceed \$105,500	105,500
Amount exceeds \$105,500 but does not exceed \$107,000	107,000
Amount exceeds \$107,000 but does not exceed \$108,500	108,500
Amount exceeds \$108,500 but does not exceed \$110,000	110,000
Amount exceeds \$110,000 but does not exceed \$111,500	111,500
Amount exceeds \$111,500 but does not exceed \$113,000	113,000
Amount exceeds \$113,000 but does not exceed \$114,500	114,500
Amount exceeds \$114,500 but does not exceed \$116,000	116,000
Amount exceeds \$116,000 but does not exceed \$117,500	117,500
Amount exceeds \$117,500 but does not exceed \$119,000	119,000
Amount exceeds \$119,000 but does not exceed \$120,500	120,500
Amount exceeds \$120,500	the number of complete dollars comprised in the annual amount

Legislative history

8 November 2005	Introduction
16 November 2005	First reading and referral to Finance and Expenditure Committee