



Inland Revenue
Te Tari Taake

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HURANGA - MŌ TE TĀKUPU ME TE MATAPAKI ANAKE**

Deadline for comment | Aukatinga mō te tākupu: **4 December 2026**

Please quote reference | Whakahuatia te tohutoro: **PUB00506**

Send feedback to | Tukuna mai ngā whakahokinga kōrero ki
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INTERPRETATION STATEMENT | PUTANGA WHAKAMĀORI

Income Tax – Forestry

Issued | Tukuna: Issue date

IS XX/XX

This interpretation statement explains how income tax applies to persons who undertake forestry activities (including those who derive income from sales of timber). It discusses the circumstances in which a person is (or is not) carrying on a forestry business, when a person has income from forestry activities, when deductions are available, and the forestry rights regime.

Legislative references are to the Income Tax Act 2007 (the Act) unless otherwise stated.

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Introduction | Whakataki

1. This interpretation statement is a general guide to how the Income Tax Act 2007 (the Act) applies to persons who undertake certain types of forestry or timber activities.¹ This includes:
 - forestry businesses;
 - persons who receive income from a partnership or look-through company (LTC):
 - partners in a partnership;
 - limited partners in a limited partnership; and
 - shareholders in an LTC;
 - landowners, farmers and horticulturists with forestry blocks, non-commercial small tree lots, ornamental trees, incidental trees and shelter belts; and
 - those involved with milling or selling wood.
2. For information on how partners in a partnership account for their income and expenses see [IS 25/11: Income tax – Partnerships \(including limited partnerships\) – general guidance](#).²
3. This statement does not explain how the Act applies to emissions units. For discussion on this subject, see [IS 25/13: Income tax and GST – Forestry activities registered in the Emissions Trading Scheme](#).³
4. This statement discusses:
 - when a person is (or is not) carrying on a forestry business (from [5]);
 - when a person has income from forestry or timber activities (from [18]);
 - when a person can claim deductions for forestry expenses (from [44]); and
 - how the tax rules apply to forestry companies on Māori-owned land (from [106]) and forestry rights (from [111]).

¹ This statement focuses on the current tax regime, introduced in 2005. It does not cover the tax regime for forestry activities before then.

² IS 25/11 Income tax – Partnerships (including limited partnerships) – general guidance *Tax Information Bulletin* Vol 37, No 4 (May 2025): 223.

³ IS 25/13: Income tax and GST – Forestry activities registered in the Emissions Trading Scheme *Tax Information Bulletin* Vol 37, No 4 (May 2025): 312.

When a person is carrying on a forestry business

5. Many of the specific deductions available for forestry activities are available only to a forestry business.⁴ A person who does not carry on a forestry business is not entitled to these specific deductions (although is still entitled to deductions under general rules).⁵ Whether a person is carrying on a forestry business also has an impact on what land development activities can be depreciated, rather than expensed. This issue is particularly relevant to farmers with forestry blocks.
6. A person carrying on a forestry business may include an individual, a company, a partner in a partnership or a shareholder in an LTC.
7. For information on whether a person is carrying on a business generally, and when a business commences and ceases, see [IS 25/25: Income tax – business activity](#).⁶
8. A “business” includes any profession, trade or undertaking carried on for profit.⁷ Whether a person is carrying on a business as opposed to a passive investment will depend on the:
 - nature of the activities they are carrying on; and
 - intention of the person to make a profit in engaging in those activities.
9. In summary, IS 25/25 explains that the nature of the activities includes:
 - the period over which the activity is engaged in;
 - the scale of operations and volume of transactions;
 - the commitment of time, money and effort;
 - the pattern of activity; and
 - financial results.
10. Determining whether a person is carrying on sufficient activity to be in a forestry business involves considering whether they have the right to:⁸
 - participate in the direction, control or supervision of the forestry activities carried out;

⁴ Sections DP 1 to DP 4, as discussed from [43].

⁵ For example, under s DA 1 and the depreciation rules. However, such a person can still spread their income and use the main income equalisation scheme (see from [40]).

⁶ IS 25/25: Income tax – business activity *Tax Information Bulletin* Vol 37, No 11 (December 2025): 85.

⁷ See s YA 1 definition of “business”.

⁸ See *Pukepine Sawmills Ltd v CIR* (1984) 6 NZTC 61,695 (HC); *Pukepine Sawmills Ltd v CIR* (1985) 7 NZTC 5,114 (CA); *AM Bisley & Co Ltd v CIR* (1985) 7 NZTC 5,082 (HC).

- enter the forest land to view the work being done – that is, the right to be physically involved through site visits and inspections;
 - receive information about the progress of the work being carried out, such as regular management reports;
 - direct the employment of a forester or consultant; and
 - grow trees on the forest land.
11. A “forestry business” is defined in s YA 1 as including forestry activities carried on by a person for the purpose of deriving income in relation to emissions units. Therefore, forestry activities relating to emissions units are a “forestry business”. There is no need for such forestry businesses to otherwise satisfy the above tests to be a “business”.
12. An investor in a partnership does not have to actively participate in the actual forestry operations to be carrying on sufficient activity for a forestry business because they are deemed to be carrying on the business of the partnership.⁹ Also, a person that has the level of activity mentioned at [9] and [10] can still be carrying on the business through an agent or through somebody described as an independent contractor. Whether someone is carrying on a business on behalf of another person will be a matter of degree. It involves an overall assessment of whether the activity is that of the principal or whether the extent of delegation is so complete (or the principal’s position is such that they really have nothing to delegate) that the activity is only of the contractor or agent. For more information, see IS 25/25 from [80]. To be able to determine which deduction provisions apply, a person may need to establish whether their operations are a forestry business, or are part of a different business (eg, an incidental part of a farming business).
13. To determine whether a separate forestry business exists, it is necessary to consider the factors at [9] and [10], and as set out in IS 25/25. The focus is on whether, after applying these factors, and confirming that both the relevant activity and profit-making intention exist from those separate operations, the forestry activity can stand on its own as a separate business or whether it is merely a part of another business.
14. As an example, tree planting or maintenance activities can be part of, or an extension of another business, such as farming, rather than a separate forestry business. This may occur where the relevant activities that a farmer carries out are either of an insufficient scale or without a profit-making intent to meet the tests set out earlier, or are otherwise closely related to the farming business and serve the purpose of carrying on that business.
15. For example, a farmer may plant trees to:

⁹ Section HG 2.

- provide shelter for livestock and farm buildings;
 - prevent erosion; or
 - improve water quality in a forested catchment area.
16. These types of plantings would not cause the person to be carrying on a forestry business.
17. In summary, the scale of any forestry or timber related operations, how they are managed, and whether there is a profit-making intention from that activity may indicate that the activity is separate to the farming business (and a business in itself). A person may have two (or more) businesses – one major and one minor – but both may still be businesses.¹⁰

When a person has income from forestry or timber activities

18. A person does not need to have a forestry business to have income from forestry or timber activities. The main income-earning activities (other than earning emissions units) involving forestry or timber are the:
- disposal of timber or a right to take timber (see from [20]);
 - disposal of land with standing timber (see from [27]);
 - leasing or licensing of land (see from [33]); and
 - creation of forestry rights (see from [111]).
19. The income tax treatment of these activities is discussed below.

Disposal of timber or a right to take timber

20. Regardless of whether a person is carrying on a forestry business, an amount that a person derives from the disposal of timber or a right to take timber is their assessable income.¹¹
21. "Dispose" is relevantly defined in the Act for specific purposes. Under its ordinary meaning, to "dispose" of something means "to get rid of" it.¹²

¹⁰ *CIR v Stockwell* (1992) 14 NZTC 9,190 (CA).

¹¹ Under s CB 24.

¹² For the ordinary meaning of "dispose", see the *Oxford English Dictionary* (online version, Oxford University Press, 2023).

22. "Timber" is defined in s YA 1 for specific purposes as including standing timber. It is not otherwise defined in the Act. "Timber" therefore takes its ordinary meaning.

Meaning of "timber"

The ordinary meaning of "timber" is wood prepared for use in building or manufacturing and trees grown for such wood.¹³

Examples include:

- species that are grown and sold commercially; or
- species that have a recognised commercial use (for example, sawn timber, pulp, posts, or firewood).

Timber also includes "standing timber", which includes trees that would be standing timber if they were mature trees.¹⁴

Timber therefore includes all forms of timber from immature trees to grown trees and cut trees. Cut trees includes trees cut into lengths of wood (eg, for making furniture or structural timber) and firewood.

For example, if a person who owns a forest harvests trees and sells those logs to a sawmill, the amount they receive from the sawmill is assessable income from the disposal of timber.

23. For income tax purposes, a disposal of timber includes, but is not limited to, selling (or otherwise getting rid of):
- standing timber while retaining ownership of the land;
 - harvested or cut timber, including wood (eg, for use in making furniture, to build structures and for firewood), and wood felled through thinning operations; and
 - slash and waste wood.
24. A "right to take timber" is defined for tax purposes as including an easement, licence or right of taking profits or produce from the land, to the extent to which the easement, licence, or right relates to timber.
25. For income tax purposes, a disposal of a right to take timber includes, but is not limited to:
- selling (or otherwise getting rid of) cutting or harvesting rights;
 - granting a licence or easement;

¹³ Concise Oxford English Dictionary (12th ed, 2011).

¹⁴ See the definition of "standing timber" in s YA 1.

- creating or granting a right to take timber; and
- creating a forestry right other than to the landowner themselves (see from [111]).¹⁵

Meaning of “a right to take timber”

A “right to take timber” includes a right of taking profits or produce from the land to the extent to which the right relates to timber. As noted above, “timber” includes all forms of timber, from immature trees to grown trees and cut trees.

For example, if a person who owns a forestry block allows someone else to enter the land to harvest trees for commercial sale, the amount they receive from the other person is income from the disposal of a right to take timber. The other person would then derive income from the later sale of that timber.

26. A disposal of a right to take timber does not include the replacement of an existing right to take timber with a new equivalent right solely to facilitate a Treaty of Waitangi settlement. In this case, any income for the extinguishment of the existing right or for the grant of a new right is exempt income.¹⁶

Disposal of land with standing timber

27. Standing timber is defined in s YA 1 as including trees that would be standing timber if they were mature trees.

Meaning of “standing timber”

“Standing timber” includes trees that would be standing timber if they were mature trees. Standing timber therefore includes immature trees that were planted to be harvested as well as trees that are ready for harvest. Amounts received from the sale of forests, forestry blocks and woodlots planted on farmland (eg, on marginal land) are included as a person’s assessable income.

28. Regardless of whether a person has a forestry business, when a person disposes of land with standing timber on it, the amount they derive from disposing of the

¹⁵ The definition of “dispose” in s YA 1 modifies the ordinary meaning for specific provisions including ss CB 24, CB 25, DP 10, DP 11 and GC 2 to include creating and granting certain rights.

¹⁶ Under s CW 1B. The Act quantifies the person’s cost of timber for the new right. For each new right the person is granted, the person is treated as having acquired the new right for a cost equal to the expenditure they incurred in relation to the old right. However, this is only to the extent that the expenditure relates to the land covered by the new right and the expenditure has not previously been deducted – see s DP 9B(2).

standing timber is assessable income.¹⁷ The exceptions to this are standing timber that is:

- ornamental or incidental trees as evidenced by a certificate;¹⁸
- trees in a crop subject to a forestry right – see from [111] for forestry rights; or
- trees subject to a profit à prendre granted before 1 January 1984.¹⁹

29. Ornamental or incidental trees are not defined in the Act. The *Concise Oxford English Dictionary* defines “ornamental” as a plant grown for its attractive appearance. It defines “incidental” as occurring as a minor accompaniment.
30. In the forestry or farming context, “ornamental or incidental” trees means trees that are incidental or a minor addition to the primary activity (such as the farming or forestry business or activity) that are not intended to be harvested for commercial use of their wood. For example, trees planted to enhance the general appearance of a property.
31. As discussed above, to be standing timber the relevant trees must have been planted (or subsequently acquired) to produce timber. This will be a question of fact in each case. Some trees may not be used to produce timber. For example:
- When native trees are grown for conservation purposes, not for harvesting, they are unlikely to be used to produce timber. This type of planting will not be standing timber. However native trees planted to earn income from being harvested are standing timber.
 - Shelter belts are usually grown to protect livestock or property from the weather. They are not usually planted to be harvested. Harvesting of shelter belts usually only occurs when trees are old, diseased or destroyed by weather events. Therefore, generally shelter belts are not likely to be standing timber but this may depend on the intended use of the trees and the size of the shelter belt (eg, the trees may have a commercial value and be standing timber in some cases if they are intended to be harvested). In the Commissioner’s view, most shelter belts will be ornamental or incidental trees.
32. Example | Taura 1 illustrates when a sale of standing timber is taxable.

¹⁷ Under s CB 25.

¹⁸ The certificate, if given by a properly authorised officer of a regional council, the Ministry for Primary Industries or another suitably qualified person, provides conclusive evidence that the relevant trees are ornamental or incidental – see s 44C of the Tax Administration Act 1994.

¹⁹ Under s CB 25.

Example | Tauira 1 – A disposal of standing timber is taxable

Mere has owned a large rural property with some forested areas for many years. Recently she has found the ongoing maintenance work has been getting too difficult, and sells the property. The sale comprises the land along with:

- a block of 8-year-old pine trees that are not yet ready for harvest but, when mature, will be able to be harvested;
- a block of mature pine trees subject to a forestry right owned by a third party; and
- some ornamental trees (with a certificate from a qualified person stating the trees are ornamental).

The part of the consideration Mere receives for the sale of the immature pine trees is her assessable income as the disposal of land with standing timber.

The part of the consideration for the land, including the land with trees subject to the existing forestry right, and the ornamental trees is not assessable income to Mere.

Leasing or licensing of land

33. The following amounts derived from land are also assessable income of a person who undertakes forestry activities:

- Any rent, fines and premiums from leasing land.²⁰ If the lease gives the lessee a right to take timber or standing timber, the lessor would have also disposed of that timber or right to take timber and the provisions in [20] to [26] apply. Amounts for the lease of the land are separately assessable.
- Any payments for the goodwill of a business if derived from a lease, licence or easement affecting the land or the grant of a right to take profits from the land.²¹

²⁰ Section CC 1(2)(a) to (c). A "fine" in the context of land is a sum of money payable by a lessee on a renewal of a lease (see *Hardley v Fatupaito* [2009] 3 NZLR 676). It is otherwise known as a premium and is paid to a lessor as an incentive for the grant of the lease.

²¹ Section CC 1(2)(d). Goodwill is the benefit and advantage of the good name, reputation and connection of a business (see *Inland Revenue Commissioners v Muller & Co's Margarine Ltd* [1901] AC 217). Payments for the goodwill of a business are for local goodwill attached to a site upon grant of a lease (see *CIR v Vector Limited* (2016) 27 NZTC 22,065).

- A payment for the benefit of a statutory licence or statutory privilege – for example, the Crown Forest Assets Act 1989 established Crown Forest Licences over land.²²
- Other revenues derived from land that are not otherwise stated in the Act and are not capital amounts.²³
- Any consideration for the grant, renewal, extension or transfer of a leasehold estate or licence.²⁴ For example:
 - upfront lump sums or periodic payments a lessee makes to a landowner for the grant of a fixed-term lease;
 - inducement payments made to secure agreement to grant or extend a forestry licence; or
 - consideration for the transfer of a lease from one operator to another, where the landowner receives payment for facilitating the transfer.
- Consideration for an agreement to surrender a leasehold estate or terminate a licence. For example, an amount paid to a forestry operator to relinquish their forestry right before the right expires.²⁵

Income under other provisions

34. There may also be other amounts that a person derives from their forestry activities that do not fall within the provisions above (from [20] to [33]). These amounts will be assessable income if they are income under ordinary concepts²⁶ or are derived from carrying on a business.²⁷
35. Income is commonly described as something that “comes in” to a person.²⁸ The phrase “under ordinary concepts” is not defined. However, the courts have considered the meaning of income “under ordinary concepts” in several cases.²⁹ The major defining factor in many cases is the periodic nature of a payment. If payments

²² Section CC 1(2)(e) to (f). Forestry rights, discussed from [109], are interests created under a statute. However, they are not granted by the Crown, so they are not a payment for a statutory licence or privilege.

²³ Section CC 1(2)(g). See *Vector*.

²⁴ Section CC 1B.

²⁵ Section CC 1C.

²⁶ Section CA 1(2).

²⁷ Section CB 1.

²⁸ See *Tennant v Smith* (1892) 3 TC 158; *CIR v Grover* (1988) 10 NZTC 5,012 (CA).

²⁹ See, eg, *Scott v Commissioner of Taxation* (1953) 35 SR (NSW) 215; *Reid v CIR* (1985) 7 NZTC 5,176 (CA).

are regular or recurrent, then they become part of the receipts on which the recipient may depend for their living expenses. However, that factor would not be enough on its own. It is also necessary to consider the relationship between payer and payee, and the purpose of the payment. It is the quality of the payment in the hands of the recipient that is important.

36. Income derived from a business is assessable to the person unless the amount is capital in nature. The disposal of timber held as trading stock in the ordinary course of business is assessable income to the person.³⁰ If timber held as trading stock is disposed of outside the ordinary course of the business or to put an end to the business, the disposal is taxable and deemed to be at market value (see [76]).³¹
37. The disposal of an emissions unit is also generally assessable income.³² The Act distinguishes between emissions units issued under different schemes. For detailed information on the tax treatment of emissions units, see IS 25/13.

Income derivation, spreading and equalisation schemes

38. The general rule is that income is allocated to the year in which it is derived.³³ To be derived in an income year, the amount received must have been earned by performing or discharging the obligations for which the payment was made (ie, the income-earning process must be complete). This will be the point at which a legally enforceable right to income or a debt arises, or the right to be paid otherwise crystallises. In addition, the amount of income must be able to be reasonably calculated and there must be a reasonable expectation that the amount will be paid.³⁴
39. Central to the concept of derivation is the proposition that there must be a gain in the sense of an amount that has "come home" to the person – that is, it is available for their separate use, benefit and disposal. An amount does not need to be received but it must have "come home" in a realised or immediately realisable form. In addition to the person being legally and beneficially entitled to the receipt, there should be no legal or business unsoundness in regarding it as a gain completely earned.³⁵ For example, if a person agrees to sell goods to a buyer, and the buyer only pays once the goods are delivered and measured, that income is derived when the

³⁰ Section CB 1.

³¹ Section CB 2.

³² Under s CB 36.

³³ Under s BD 3.

³⁴ See *CIR v Farmers Trading Company Ltd* (1982) 5 NZTC 61,200; *Hawkes Bay Power, Henderson v FCT* 70 ATC 4016; *Australian Gas Light Co & Anor* (1983) 52 ALR 691.

³⁵ See *Trustee and Agency Company of South Australia Ltd* (1938) 63 CLR 108 (HCA); *Arthur Murray (NSW) Pty Ltd v FCT* (1965) 114 CLR 314; *Farmers Trading Company; CIR v Molloy* (1990) 12 NZTC 7,146 (HC).

person has the right to be paid (which is when delivery and measurement are completed).

40. However, the above general rule does not necessarily apply where a person has income from disposing of timber or standing timber.
41. In these cases, the person can choose to allocate the income between the income year in which they derive it and any 1 or more of the previous 3 years.³⁶ An election to spread the income must be made in writing to the Commissioner within 12 months of the end of the income year that the timber was sold. Deductions are allocated backwards in the same proportion as income.³⁷ There is no use of money interest on the prior income years reassessed by the spread back.³⁸ This is illustrated in Example | Tauira 2.

Example | Tauira 2 – Spreading back income

Mike is an investor in a forestry partnership and carries on a forestry business. In the 2026 income year, the partnership attributes income and expenditure to Mike, resulting in him having net income of \$80,000.

The partnership income would create a large tax bill for Mike for the 2026 income year due to his other income for that year.

Mike's tax agent elects on behalf of Mike to allocate and spread the amounts across the 2026 income year and the 3 previous income years as follows:

- 2026 - \$25,000
- 2025 - \$15,000
- 2024 - \$15,000
- 2023 - \$25,000.

Mike's tax agent includes \$25,000 of the income in Mike's 2026 return by the due date of that return. At the same time, the agent advises Inland Revenue through MyIR that Mike elects to spread the remaining income back to the 2023 to 2025 income years.

Inland Revenue reassesses Mike's 2023 to 2025 returns to include the additional income spread back to those years. Mike is given 1 month to pay the additional tax arising for those earlier years. No use of money interest is charged on the increased tax amounts owing for those earlier years.

³⁶ Section EI 1(2).

³⁷ Under s EJ 1(2).

³⁸ Under s 120P of the Tax Administration Act 1994.

By spreading some of his 2026 forestry income back to the 3 prior years, Mike has reduced the overall tax that he would otherwise have had to pay on his net income if he had been required to return it all in the 2026 income year.

42. Also, an income equalisation scheme allows eligible people who derive income from forestry (including through a partnership or look-through company), to even out income fluctuations by spreading their gross income from year to year. Inland Revenue operates two schemes:
- the main income equalisation scheme, which is open to people who are not companies, public authorities, Māori authorities or unincorporated bodies; and
 - the thinning operations income equalisation scheme, which is open only to companies.³⁹
43. For more information on how these schemes work, see [Income equalisation schemes](#).

Deductions for forestry expenses

44. The Act contains specific deductibility provisions for certain forestry expenses (discussed from [47]). Many of these provisions apply only to forestry businesses (as discussed earlier).
45. The specific provisions do not prevent a person from deducting expenses under the general deductibility provision, also known as the general permission.⁴⁰ However, the specific provisions must be applied to an expense first.⁴¹ If a specific provision does not apply, a person is allowed a deduction for expenditure they incur in deriving their assessable income or in the course of carrying on a business for the purpose of deriving their assessable income, provided it is not subject to a limitation.⁴² The most relevant limitation for forestry expenditure is the capital limitation.⁴³ Under the general permission, an expense is deductible in the year it is incurred. An expense is incurred when a person becomes definitively committed to the expenditure for which a deduction is sought.⁴⁴

³⁹ Section EH 63. A “company” is defined in s YA 1 to include a wide range of bodies but in most cases does not generally include a partnership, limited partnership or look through company.

⁴⁰ Section DA 1.

⁴¹ The general permission is in s DA 1. In *Hill v CIR* (1994) 16 NZTC 11,037, the court held that the specific forestry provisions were not a code.

⁴² Sections DA 1 and DA 2.

⁴³ Section DA 2. The other limitations in s DA 2 may also apply.

⁴⁴ *CIR v Banks* [1978] 2 NZLR 472 (CA).

46. The specific provisions apply to the following expenses, which are discussed further below:

- general forestry expenditure that a forestry business incurs (from [47]);
- plant and machinery for use in a forestry business (from [50]);
- improvements to forestry land that a forestry business incurs (from [55]);
- revenue account property and trading stock (from [67]);
- cost of timber (from [81]); and
- expenditure that farmers who also undertake forestry activities incur (from [89]).

General forestry expenditure that a forestry business incurs

47. A person carrying on a forestry business is specifically allowed a deduction for:

- administrative overheads, rates, rent, insurance premiums or other expenses of the same kinds;
- interest on money borrowed for the purposes of the business and employed as capital in the business;
- planting or maintaining trees on the land;
- applying fertiliser after planting the trees;
- disease control, pest control or weed control;
- repair or maintenance of plant, machinery or equipment that the person uses mainly in:
 - planting or maintaining trees on the land; or
 - preparing or otherwise developing the land for the person's forestry operations;
- repair or maintenance of land improvements, other than trees, effected on the land and used by the person mainly in the business (for example, skid sites);
- the construction of access tracks to or on the land that are:
 - constructed for a specific operational purpose; and
 - used for no longer than 12 months after construction; and
- the cost of standing timber that is lost or destroyed.⁴⁵

⁴⁵ Section DP 1(1)(a) to (i). However, where the person receives an amount from insurance, indemnity or compensation for the loss or destruction of, or damage to trading stock, the amount is assessable income under s CG 6.

48. Deductions for these costs are permitted for a person carrying on a forestry business even if an expense is capital in nature (for example, drones). The general permission must still be satisfied. That is, there must be a nexus with deriving income or carrying on a business for the purpose of deriving income. The deduction is taken in the year in which it is incurred.⁴⁶ For partners in a partnership that are carrying on a forestry business, these deductions are allocated in the relevant year incurred, which may result in losses if no income is yet derived in that year.
49. Example | Taura 3 illustrates general forestry costs that meet these requirements.

Example | Taura 3 – General forestry costs that a forestry business incurs are deductible

Yee operates a forestry business that involves growing *Pinus radiata* for harvesting, re-planting, and generating emissions units. Yee's business incurs various general expenses, including for planting and maintaining trees, pest control, weed spraying, and fertiliser to maintain the forest.

Yee's business builds a track to allow machinery to access an area for a one-off harvesting operation. The track is used only to harvest that area and is then abandoned.

Yee's business can deduct all of these costs as general forestry expenditure in the same year that it incurs the expense.

Plant or machinery for use in a forestry business

50. A deduction is allowed for an amount of depreciation loss in acquiring plant and machinery where a person:
- uses the plant or machinery mainly to develop land for use in a forestry business that they will carry on there;⁴⁷ or
 - carries on a forestry business on land in New Zealand and uses the plant or machinery mainly in planting or maintaining trees on the land.
51. In both instances, the general permission must be satisfied. As noted above, there must be a nexus with deriving income or carrying on a business for the purpose of deriving income. Also, the plant and machinery do not need to be used exclusively

⁴⁶ Sections DP 1(2) and BD 4(2).

⁴⁷ Section DP 2. Ordinarily a depreciation deduction is only allowed for depreciable property that, in normal circumstances, might reasonably be expected to decline in value while it is used or available for use in deriving assessable income or in carrying on a business for the purpose of deriving assessable income (s EE(1)(b)). Section DP 2 overrides s EE(1)(b).

for developing land or planting or maintaining trees; the requirement is that the forestry business mainly uses them for those purposes.

52. The amount of depreciation loss is treated as being incurred in the income year for which it is calculated.⁴⁸ For the relevant rates of depreciation, see **General depreciation rates – IR 265** (guide, Inland Revenue, 2026). When a business has claimed a depreciation loss for depreciable property, and later disposes of the item, an amount of depreciation recovery income may be payable.⁴⁹
53. A 20% “investment boost” deduction is available for the cost of new investment assets that are first available for use in New Zealand on or after 22 May 2025.⁵⁰ The 20% deduction is allowed in the first year for depreciable property and for improvements listed in sch 20, part G (see from [55]).⁵¹ This includes certain types of alterations, extensions or repairs to an asset. A person cannot later elect to treat depreciable property as non-depreciable. Once a deduction is taken, that amount is taken out of the cost or adjusted tax value of the relevant item of depreciable property for general depreciation purposes.
54. Relevantly, the deduction for new investment assets applies to new commercial and industrial buildings, improvements to depreciable property, and certain forestry land improvements. Example | Taura 4 illustrates how a depreciation deduction is calculated with investment boost.

Example | Taura 4 – Calculating a depreciation deduction for machinery with investment boost

A forestry business purchases a new log skidder for \$350,000 on 1 October 2025. The skidder has a depreciation rate of 16% (DV). The business uses the asset for 6 months in the income year ended 31 March 2026.

The amount the business can deduct in the 2025–26 income year is:

- $20\% \times \$350,000 = \$70,000$, plus
- $16\% \times (\$350,000 - \$70,000) \times 6/12 = \$22,400$.

The total deductions for the new investment asset in the 2025–26 income year are \$92,400 (\$70,000 + \$22,400).

If the forestry business chose not to claim the investment boost deduction, its deduction in the 2025–26 income year would be \$28,000 (16% of \$350,000 $\times$ 6/12).

⁴⁸ See s EE 1(4).

⁴⁹ Section EE 1(3).

⁵⁰ This includes improvements in sch 20, part G. See s DI 4(1)(iv).

⁵¹ Section DI 5(1).

Improvements to forestry land that a forestry business incurs

55. A deduction is allowed for expenditure on forestry land improvements where a person carries on a forestry business on land in New Zealand and they have made an improvement to the land as described in sch 20, part G of the Act.
56. The improvements covered in sch 20, part G are not depreciable property.⁵² [Schedule 20, part G](#) sets out the improvements and their specific percentages, as the "diminished value" of eligible expenditure allowed as a deduction.
57. A deduction is available for owners and non-owners of the land who are carrying on a forestry business on that land. Landowners are allowed a deduction if they incurred the expenditure themselves or if another person incurred it. A person who is carrying on a forestry business but does not own the land is allowed a deduction only when they incurred the expenditure themselves. In both instances, a deduction is allowed when the expenditure is:
- incurred on making the improvement;
 - incurred in developing the person's land in the income year before the year in which they dispose of the land; and
 - of benefit to the business in the income year in which the person is allowed the deduction.⁵³
58. Where landowners incur the expense themselves and sell the land improvement before they claim a full deduction for it, the purchaser continues to claim the residual diminished value of the improvement after the sale.
59. The amount of the deduction is calculated using the formula:
- $$\text{sch 20 percentage} \times \text{diminished value of the improvement}$$
60. Example | Taura 5 illustrates how a business calculates diminished value deductions for a land improvement.

⁵² Section EE 7(j).

⁵³ Section DP 3.

Example | Tauira 5 – Calculating a diminished value deduction for a land improvement

Aria operates a forestry business. The business constructs a permanent gravel road for \$120,000 to provide access for trucks that will harvest the forest. The road provides an ongoing benefit to Aria's business as it gives access to the areas to be harvested.

Aria's business can begin to deduct an annual amount under sch 20, part G as follows:

- Year 1 \$24,000 ($20\% \times \$120,000$)
Diminished value of the road is now \$96,000
- Year 2 \$19,200 ($20\% \times \$96,000$)
Diminished value of the road is now \$76,800
- Year 3 \$15,360 ($20\% \times \$76,800$)
Diminished value of the road is now \$61,440

Aria's business can continue to deduct 20% of the diminishing value of the gravel road each year until the diminishing value is zero.

A 20% investment boost deduction is also available for the cost of the permanent gravel road if it is first available for use on or after 22 May 2025. If investment boost applies, then Year 1 will have a total deduction of 36%, being \$24,000 investment boost plus an additional \$19,200 under sch 20, part G. The diminished value of the road after the first year with investment boost is \$76,800.

61. As land improvements are not depreciable property, if a person sells a land improvement for an amount greater than the diminished value of the improvement, the excess amount is not income of the person.
62. As the expenditure must be of benefit to the forestry business in the income year in which the person is allowed the deduction, a deduction is not allowed for land improvements that have been written off or no longer offer a benefit to the business.
63. There may be other forestry land improvements that are not contained in sch 20, part G. The capital limitation prevents an immediate deduction for these costs. A deduction for depreciation loss is also unavailable unless they are depreciable land improvements set out in sch 13. Examples of depreciable land improvements that are potentially relevant to a forestry business include bridges, culverts and roads.⁵⁴

⁵⁴ However, bridges and culverts that are necessary for the construction of a road are an improvement to the land under sch 20, part G. Accordingly, they are not depreciable property.

64. If the land improvement is not listed in sch 13, the expense is generally not deductible unless it can be included in the cost of timber (see from [81]).
65. The operator of a forestry business is also allowed a deduction for the amount of diminished value of a forestry land improvement on the land on which the business is operated, if the improvement is destroyed or irreparably damaged, making it useless for deriving income.⁵⁵ A deduction is allowed only if the person would be entitled to a deduction for the land improvement had it not been damaged or made useless. However, no deduction is available if the damage is the result of the action or failure to act of the person, an agent of the person, or an associated person. For example, a deduction is allowed for damage to a culvert at the bottom of a hill if the culvert is destroyed in a flood that was forecast to occur once in every 100 years and the person had maintained the culvert before the flood. If the person had not maintained the culvert and kept it in good working condition before the flood, a deduction may not be available for the damage.
66. Finally, no deduction is allowed for land-contouring expenses for those who derive income from disposing of timber, the right to take timber or land with standing timber (see from [20] to [29]).⁵⁶ Broadly, land contouring is a type of earthworks carried out to permanently reshape land for a particular purpose; for instance, to improve drainage or for erosion control. A deduction for these expenses is also not permitted under the general permission.

Cost of revenue account property

67. A deduction is allowed for expenditure that is the cost of revenue account property.⁵⁷

Meaning of “revenue account property”

“Revenue account property” means trading stock or property that, if disposed of for valuable consideration, would produce income.⁵⁸

68. The disposal of timber, a right to take timber and standing timber produces assessable income. Therefore, timber, a right to take timber and standing timber are revenue account property.⁵⁹

⁵⁵ Under s DP 4.

⁵⁶ Section DP 7.

⁵⁷ Section DB 23.

⁵⁸ See definition of “revenue account property” in s YA 1.

⁵⁹ Sections CB 24 and CB 25.

69. A deduction for any revenue account property that is not trading stock is allocated to the earlier of the year in which the property is disposed of or the year in which it ceases to exist.⁶⁰ For example, the costs a vendor of standing timber incurred when they acquired their standing timber are deductible at the time the standing timber is disposed of. However, due to the specific deductions set out in [47] if they had planted the trees themselves, those costs are deductible when incurred.

Trading stock

70. "Trading stock" is defined in the Act:

Meaning of "trading stock"

"Trading stock" is property that a person who owns or carries on a business has for the purpose of selling or exchanging in the ordinary course of the business.⁶¹ Trading stock does not include land.

71. The core activities of a person involved in a forestry business (that is not a permanent forestry business generating emissions units (see [128] to [129])) generally involve growing, harvesting and selling timber. As timber is the property in which the person trades, the person will sell the timber in the ordinary course of their business. For this reason, timber comes within the definition of trading stock.
72. However, trees attached to land are part of the land and land is excluded from the definition of trading stock.⁶² Therefore, land with standing timber on it is not trading stock at that time. Timber belonging to a forestry business becomes trading stock after it has been harvested.
73. Before considering whether a deduction for trading stock is available, the person must consider whether they are allowed one of the specific deductions discussed above (from [47] to [65]). For example, they may be able to deduct the cost of planting and maintaining trees for a forestry business. Where a specific deduction applies, they must take that deduction instead of a general deduction for trading stock or other revenue account property. If the expense is a general forestry expense listed at [47], they take the deduction in the year in which it is incurred.⁶³
74. Once timber becomes a person's trading stock, the person is required to value that trading stock at the end of each income year.⁶⁴ The person includes the closing value

⁶⁰ Under s EA 2(2).

⁶¹ Section EB 2.

⁶² *Seas Sapfor Ltd v Commissioner of Stamps* (SA) 96 ATC 4992.

⁶³ Under ss DP 1(2) and BD 4(2).

⁶⁴ Section EB 3.

of the trading stock that remains on hand at the end of the income year as income.⁶⁵ They include the opening value of the trading stock for the next income year as a deduction.⁶⁶ If the trading stock is not disposed of in the same year, the deduction is effectively reallocated to a subsequent year.⁶⁷ The effect of this is that the person can only claim the deduction in the income year in which they sell or otherwise dispose of the trading stock.

75. In summary:

- Expenses incurred by a forestry business in planting trees are deductible when incurred and are not treated as the cost of revenue account property or trading stock.⁶⁸
- Expenses incurred in acquiring standing timber are not deductible until the timber is disposed of.⁶⁹ Standing timber is revenue account property, but is not trading stock prior to harvest.
- Once timber is harvested and severed from the land, it is trading stock if the person carries on a business. Expenses incurred on the timber are a cost of revenue account property and deductible in the year the trading stock is disposed of.⁷⁰

Trading stock disposed of for less than market value

76. Usually, the amount derived from the disposal of timber or a right to take timber is the consideration received for the disposal. However, when timber is disposed of for less than market value, it may be deemed to be at market value in some cases. These cases arise where timber is a person's trading stock and the person takes it for their own use or disposes of it outside of their business activity or to an associated person.⁷¹
77. The following are also treated as trading stock and deemed to be disposed of for market value:

⁶⁵ For the purposes of s CH 1 (Adjustment for closing values of trading stock, livestock, and excepted financial arrangements).

⁶⁶ For the purposes of s DB 49 (Adjustment for opening values of trading stock, livestock, and excepted financial arrangements).

⁶⁷ Under s EA 1.

⁶⁸ See [45] and [71].

⁶⁹ Under s EA 2(2).

⁷⁰ Under s EA 2(2).

⁷¹ Under s GC 1.

- a grant of a right to take timber (not including the grant of a right to the grantor); or
 - a disposal of standing timber as part of the disposal of the land on which it stands. This does not include a disposal subject to a right in favour of the seller to take timber. Standing timber in this instance does not include ornamental or incidental trees, trees in a crop subject to a forestry right or trees subject to a profit à prendre granted before 1 January 1984.⁷²
78. In these cases, the market value is the amount of income to the person disposing of the trading stock, and the amount of deduction available to the purchaser.⁷³
79. However, where trading stock is disposed of along with other assets as part of the sale of a business, the vendor and purchaser may agree to allocate amounts to each asset class. In this case, the purchase price allocation rules apply.⁷⁴ The amount allocated to an asset class (eg, timber) under a written allocation agreement is the value for tax purposes unless the sale is to an associated party.⁷⁵ For an associated party transaction, the value is market value. If there is no written allocation agreement, the value for tax purposes is the greater of the market value for the relevant asset class proportional to the other asset classes and the tax book value for the relevant asset class.⁷⁶
80. For more information on the purchase price allocation rules as they relate to forestry, see IS 25/13.

Cost of timber

81. If none of the provisions discussed above applies, a person may still be allowed a deduction if the amount is included as the cost of timber.⁷⁷ In many cases, an amount that is the cost of timber is also the cost of revenue account property and the deduction for revenue account property is taken instead (see [67] to [69]).
82. Like other revenue account property and trading stock, a deduction for the cost of timber is carried forward until the year in which the timber is disposed of. For the cost of acquiring standing timber that is a permanent forest under the Emissions Trading Scheme, this means a deduction for the cost of timber (other than specific

⁷² Under s GC 2.

⁷³ Section GC 1.

⁷⁴ Section GC 1(5)(e).

⁷⁵ Section GC 20(2) and (2B).

⁷⁶ Section GC 21(3).

⁷⁷ Under s DP 11.

planting costs) is not allowed until the forest is sold or the 50-year timeframe has passed (because permanent forests cannot be harvested during that timeframe).

83. Where a person has disposed of timber, the right to take timber or land with standing timber (see from [20] to [29]), the cost of timber is the amount of expenditure that the person incurred in relation to timber:
- before harvest; or
 - before the disposal of the timber or right (for a disposal of standing timber, a right to take timber, licence or easement).
84. The amounts included as the cost of timber do not include amounts otherwise deductible under other provisions (see [47] to [48] and [67] to [69]).
85. The “cost of timber” is defined for tax purposes however it is not an exhaustive definition and can be varied in certain circumstances. As a starting point, the meaning of “cost of timber” is set out as follows:⁷⁸

Meaning of “cost of timber”

The “cost of timber” includes the purchase price of timber or the acquisition cost of the right to take timber. It also includes:

- expenditure on planning, planting and growing the timber; and
- expenditure incurred in relation to:
 - the creation or grant of a right to take timber;
 - the grant of a licence or an easement in relation to timber; and
 - the creation of a forestry right, other than a right in favour of the proprietor in relation to establishing, maintaining and harvesting timber.

Many of these costs may otherwise be deductible under other provisions (see [47] to [48] and [67] to [69]).

The cost of timber excludes:

- expenditure for which a deduction is allowed under another provision (discussed above, including both specific and general provisions);
- expenditure on avoiding, remedying or mitigating effects of discharge of contaminant or making of noise;⁷⁹ and
- payments made to an environmental restoration account.⁸⁰

⁷⁸ See the definition of “cost of timber” in s YA 1.

⁷⁹ For which a deduction is permitted under s DB 46.

⁸⁰ For which a deduction is permitted under s DQ 4.

86. The cost of timber is varied where a person acquires any of the following:

- **Land with standing timber on it:** The cost of timber is the same amount as the vendor derived for disposing of the standing timber (see [27] to [29]).⁸¹
- **Timber, a right to take timber, or land with standing timber, as relationship property:** The cost of timber is the cost base of the timber to the person transferring the timber (the transferor). The amount of assessable income to the transferor is the "cost of timber" at the date of transfer.⁸² This means the person receiving the timber adopts the cost base of the transferor and the transferor makes no gain.⁸³ Example | Tauira 6 illustrates this.
- **Timber, standing timber, or a right to take timber as a distribution from a deceased estate** to a surviving spouse, civil union partner or de facto partner of the deceased or a person within the second degree of relationship to the deceased: The transfer is treated as a transfer of relationship property. That is, the cost of timber is the cost base of the timber to the deceased. This means the person receiving the timber adopts the cost base and the transferor makes no gain.⁸⁴
- **Timber that is held as trading stock and is acquired at below market value** in circumstances discussed at [76] to [79]: The cost of timber is the market value of the trading stock at the time of the acquisition.
- **Timber, standing timber or a right to take timber, and the transferor is an associated person who has assessable income:** For a discussion of the provisions that define assessable income, see from [20] to [29]. See [87] to [88] for more about associated persons.
- **A grant of a right to take timber, other than in favour of the grantor:** The cost of timber is the market value of the trading stock at the time of the disposal.
- **A disposal of standing timber as part of the disposal of the land on which it stands,** other than a disposal subject to a right in favour of the seller to take timber: The cost of timber is the market value of the trading stock at the time of the disposal.⁸⁵

⁸¹ Sections DP 10(1) and CB 25.

⁸² Under ss FB 6 and FB 7. See also the definition of "amount" in s YA 1.

⁸³ Section DP 10.

⁸⁴ Section FC 1(1)(a) and (b) and s FC 6. See also the definition of "close relative" in s YA 1.

⁸⁵ Sections GC 1 and GC 2.

- **Land with standing timber on it from the Crown, Māori owners or an associated company as part of a joint venture and the acquirer is a forestry company:** The cost of timber is the lesser of:
 - the vendor's cost of timber at the date of the disposal; and
 - the amount of income the vendor derives from the sale.⁸⁶
- **A replacement right to take timber acquired under a Treaty of Waitangi claim settlement:** For further discussion, see [26].

Example | Tauira 6 – Disposal as part of a relationship property agreement is treated as occurring for the cost of timber

Alex and Sam jointly acquired timber for \$1,000 from a neighbouring farmer's forestry block to sell for firewood. This timber still needed time to season before they could sell it.

Before the timber has seasoned, their relationship ends, and Alex and Sam enter into a relationship property agreement to divide their assets. Under the agreement, Alex agrees to transfer their share of the timber to Sam as Sam will continue the firewood business alone.

Alex has disposed of timber to Sam. Because the disposal occurs under a relationship property agreement, it is treated as occurring for the cost of timber (which is \$500 for Alex's interest).

Alex derives no net income because the deemed sale income of \$500 less Alex's cost of timber of \$500 is zero. Sam's cost of timber is increased by \$500 to \$1,000 to reflect the amount acquired from Alex.

Transactions between associated parties

87. The Act specifies the amount of a deduction for the costs of acquiring timber, a right to take timber or standing timber where the acquisition is from an associated party and the vendor has assessable income under the provisions discussed from [20] to [29].⁸⁷ This provision generally includes transactions between family members and between people with common interests in partnerships, companies and trusts.⁸⁸
88. The amount of the deduction for the vendor's cost of the timber, right to take timber or standing timber is limited to the amount of the income they derive. However, the

⁸⁶ Section DP 9 and s CB 25.

⁸⁷ Section DP 10(3).

⁸⁸ See ss YB 1 to YB 16 for the tests to determine whether parties are associated.

purchaser is allowed a deduction, in the income year they dispose of the timber, for the total cost to them of acquiring the timber, and the amount, if any, for which the vendor is denied a deduction. Example | Taurira 7 illustrates this.

Example | Taurira 7 – The cost of timber is limited to the income in an associated party transaction

Hōne acquired land with standing timber on it from a third party in 2024. He paid \$50,000 for the standing timber.

After obtaining an independent valuation of the standing timber which values the standing timber at \$45,000, Hōne grants his brother Rāwiri a right to cut and sell the timber standing on his land for \$45,000.

Because Rāwiri is an associate of Hōne, the cost of the standing timber Hōne is allowed as a deduction is \$45,000, being equal to the amount of income that he has received from Rāwiri.

Hōne includes the \$45,000 he receives from Rāwiri as assessable income. He also claims a cost of timber deduction of \$45,000. This means Hōne's net income from the granting of the cutting rights to Rāwiri is zero.

Rāwiri's cost of timber is \$50,000. This is the amount he pays Hōne for the cutting rights (\$45,000), plus the amount of cost of timber deductions denied to Hōne (\$5,000).

Deductions for farmers

89. Farmers may undertake timber-related or forestry activities on their land either as part of their farming or agricultural business or as a separate business. A forestry business is not a "farming or agricultural business" and forestry has its own tax regime.⁸⁹ A person carrying on a farming or agricultural business is specifically allowed deductions for some costs that are not deductible expenses to those in a forestry business, such as:

- fencing expenses (see [91] to [94]);⁹⁰
- land clearance expenses (see [95] to [97]);

⁸⁹ See *Hill*, and specific provisions applying to each type of business (subpart DO applies to farming businesses and subpart DP applies to forestry businesses)

⁹⁰ Section DO 1.

- plantings for erosion, shelter, and water protection purposes (see [98] to [99]); and⁹¹
- trees on farms (see [100] to [105]).⁹²

90. A deduction is allowed for capital expenses however the general permission must still be satisfied.

Fencing expenditure

91. A deduction is allowed for expenses a farming or agricultural business incurs on building fences for farming or agricultural purposes, when those expenses are incurred. These expenses include buying wire or wire netting for the purpose of making new or existing fences rabbit-proof, or building fences to keep stock contained. The deduction also applies to capital expenses, provided the general permission is met.⁹³
92. However, fencing expenses are not immediately deductible when incurred by a forestry business. Therefore, where a person has both a farming business and a forestry business they need to consider which business the fence relates to.
93. Where the fence is erected for farming purposes (for example, to keep stock contained) then the deduction is available to the farming business in the year in which the expense is incurred.
94. Where the fence is erected for forestry purposes (for example, to protect immature trees), a deduction is available under the forestry provisions.⁹⁴ For a forestry business, fencing is a land improvement listed in sch 20, part G, and 10% of the diminished value of the fence is allowed as a deduction in each year.

Land clearance expenses

95. The same conclusion as for fencing expenses applies to land clearance expenses. A deduction for the cost of clearing or removing of scrub, stumps, or undergrowth from the land is allowed for a person carrying on a farming or agricultural business, when the expense is incurred.⁹⁵
96. However, where a person also has a forestry business, and the land clearing expenditure is incurred for that business, the person must instead take a deduction

⁹¹ Section DO 2.

⁹² Section DO 3.

⁹³ Section DO 1.

⁹⁴ See *Hill* and subpart DP.

⁹⁵ Section DO 1.

for land clearance expenses under the forestry provisions.⁹⁶ Where a second rotation of trees is to be planted, the cost of clearing the land in preparation for that second rotation is included as land clearance expenses for the forestry business (see [47]). Land clearance is a land improvement listed in sch 20, part G, and 5% of the diminished value of the improvement is allowed as a deduction in each year.

97. If a person does not have a separate forestry business but incurs the expense as part of a timber related activity (see [20] to [28]), then a deduction for land clearance expenses is allowed if the general permission is met (see [45]).

Plantings for erosion, shelter, and water protection purposes

98. A deduction is allowed for planting or maintaining trees or plants when a person carries on a farming or agricultural business on land, regardless of whether the business is the principal business carried out on the land. The trees or plants do not need to be on the same land as the business. However, they do need to be planted or maintained for the purpose of:
- preventing or combating erosion of the land;
 - providing shelter to the land; or
 - preventing or mitigating detrimental effects on a watercourse or body of water from the discharge of farming or agricultural contaminants.⁹⁷
99. The deduction is limited to expenses incurred for only these three purposes. A deduction is not available where trees are planted for other purposes, for example, to generate emissions units.

Trees on farms

100. Where a farming or agricultural business is the "principal business" a person carries out on land, they are allowed a deduction for planting or maintaining trees on the land.⁹⁸ The deduction is not limited to the specific purposes in [98] to [99].
101. To qualify for this broader deduction, the trees do not need to be planted or maintained for the purpose of, or in the course of, the farming business. Further, the farming business does not need to be the only business carried out on the land, just the main one.

⁹⁶ See *Hill* and subpart DP.

⁹⁷ Section DO 2.

⁹⁸ Section DO 3.

102. Therefore, a deduction for the cost of planting or maintaining trees is allowed if the trees are planted or maintained for an incidental business on the same land as the farming or agricultural business and the general permission is met.
103. If the other business is a forestry business, a person should instead take any relevant deduction as a general forestry expense as set out at [47]. However, they cannot deduct the same expenditure under different provisions.
104. If the other business is not a forestry business, the farming or agricultural business is allowed separate deductions for tree planting and tree maintenance. Each deduction is the lesser of \$7,500 and the amount the person incurs in planting or maintaining trees. The deduction is allocated to the income year in which the expense is incurred.⁹⁹
105. However, a deduction is not allowed for trees:
- for which the person is allowed a deduction as plantings for erosion, shelter, and water protection purposes (see [98] and [99]); or
 - planted mainly to produce fruit.¹⁰⁰

Forestry companies on Māori-owned land

106. Specific rules apply to a “forestry company”. A “forestry company” is a company incorporated under an agreement between the Crown, a holding company of the forestry company and Māori owners (who have a beneficial interest in the land the forestry company acquired). Under the agreement, the forestry company’s purpose is to acquire land (partly from the Crown, partly from the Māori owners and partly from the holding company) and to carry on a forestry business on the land.¹⁰¹
107. An amount that a forestry company derives from the disposal of standing timber is not assessable income; rather, it is exempt income.¹⁰² Any expenses incurred in deriving exempt income are not deductible.¹⁰³
108. Interest derived from a qualifying debenture issued by a forestry company or a Māori investment company is also exempt income of the person deriving it to the extent that it is paid by the issue of a further qualifying debenture. Broadly, qualifying debentures include debentures:

⁹⁹ Section DO 3(2).

¹⁰⁰ Section DO 3(1).

¹⁰¹ See definition of “forestry company” in s YA 1. A person can also run a forestry business through a company but to be a “forestry company” for tax purposes, the definition in s YA 1 has to be met.

¹⁰² Under s CW 1.

¹⁰³ Under s DA 1.

- for the unpaid purchase price of land a forestry company acquires;
- for money a forestry company borrows from an associated company and uses for various specified purposes;
- that a forestry company issues for capitalised interest charged under another qualifying debenture; and
- that a Māori investment company issues to a shareholder of the company or a trustee for a shareholder.¹⁰⁴

109. Any interest that a forestry company or Māori investment company pays is not deductible when it is:

- paid by the company under a qualifying debenture it issued; and
- exempt income of the person deriving it.¹⁰⁵

110. A deduction for interest that a forestry company or Māori investment company pays is also not permitted under general permission.¹⁰⁶

Forestry rights

111. As noted at [20], an amount derived from the disposal of timber, or a right to take timber, is assessable income regardless of whether the seller owns the land that the timber is on. A forestry right is a right a landowner creates under statute.¹⁰⁷ Once created, a forestry right gives the holder the right to establish, maintain and harvest, or to maintain and harvest, a crop of trees on the land owned by the registered owner of the land (the grantor of the right). Therefore, the creation of a forestry right is a disposal of timber or a right to take timber (unless the right is granted to the forest owner).

112. A forestry right may grant or reserve rights of access and rights of construction and use of tracks, culverts, bridges, buildings, and other works and facilities if those rights are ancillary to and necessary for the primary right. The right may also provide for charges, payments, royalties or division of the crop or the proceeds of the crop. However, no forestry right is capable of conferring a right of exclusive possession of the land.¹⁰⁸

¹⁰⁴ See definition of "qualifying debenture" in s YA 1.

¹⁰⁵ Section DP 8.

¹⁰⁶ Section DP 8(4).

¹⁰⁷ Rights are created under s 2A of the Forestry Rights Registration Act 1983 (FRRA).

¹⁰⁸ Section 2A(4) of the FRRA.

113. A forestry right is a profit à prendre and may be registered against the title of the landowner under the Land Transfer Act 2017.¹⁰⁹ A profit à prendre is generally described as a right to take something off another person's land or to take something out of the soil, including a portion of the soil itself.¹¹⁰
114. As a forestry right is a profit à prendre, it is an interest in land under land law.¹¹¹ A forestry right is therefore an interest in land that is distinct from the original land over which it was created. A forestry right separates the ownership of trees growing on an area of land from the land itself.
115. Forestry rights are structured differently, depending on the contractual arrangements agreed by the parties. Some may require an upfront payment for the grant of the right, and others may require payments over time. Different contractual arrangements may have different tax consequences.
116. For tax purposes, an interest in land is treated as a lease or a leasehold estate if:
- the right includes a right to receive the profits from the land; and
 - the right provided is not a freehold estate.¹¹²
117. It follows that a forestry right will be a lease for tax purposes, as long as the interest granted is not a freehold estate. This is because forestry rights owners have the right to receive income from harvesting the trees or from emissions units. Some of the lease provisions at [33] may potentially apply.

The financial arrangements rules

118. Some specific types of leases are subject to the financial arrangements rules. A financial arrangement is an arrangement under which a person receives money in consideration for providing money or money's worth to a person at a future time.¹¹³ This may technically occur under some forestry rights agreements where the holder of the forestry right is required to make ongoing periodic payments to the grantor of those rights.
119. However, leases that are not finance leases are excepted financial arrangements and therefore not financial arrangements.¹¹⁴ A finance lease typically transfers

¹⁰⁹ Under s 3 of the FRRA and s 108 of the Land Transfer Act 2017.

¹¹⁰ See *Duke of Sutherland v Heathcote* [1892] 1 Ch 475; *Re Refund of Dues under Timber Regulations* [1935] AC 184 at 193.

¹¹¹ As confirmed by DW McMorland and others, *Hinde, McMorland and Sim Land Law in New Zealand* (online ed, LexisNexis) at 16.085.

¹¹² See definitions of "lease", "leasehold estate", "estate" and "land" in s YA 1.

¹¹³ Section EW 3(2).

¹¹⁴ Section EW 4(3) and EW 5. Emissions units are also excepted financial arrangements.

substantially all risks and rewards of the ownership of an asset to the lessee, often with a transfer or option to acquire the asset.

120. As noted at [111], forestry rights are limited to establishing, maintaining and harvesting a crop of trees on the land. These rights do not extend to exclusive possession or ownership of the land. Forestry rights are not capable of transferring substantially all the risks and rewards of ownership to the holder of the forestry right. Therefore, a forestry right is not a lease that is a finance lease, and is an excepted financial arrangement.¹¹⁵ This means that the financial arrangements rules do not generally apply to a forestry right.

Specific tax provisions that apply to forestry rights

121. As noted at [20], an amount derived from the disposal of timber, or a right to take timber, is assessable income. The following amounts are therefore assessable income:
- amounts that the rights grantor receives for the creation, sale or other disposal of a forestry right; and
 - consideration that the rights holder receives for the sale of the harvested trees or emissions units.
122. The disposal of land with standing timber where the timber is subject to forestry rights is not generally assessable income (see [28]). However, the disposal of land with standing timber subject to forestry rights may produce assessable income where the land is revenue account property (see from [67]).
123. A person who owns a forestry right and has a forestry business is allowed a deduction for general forestry expenditure they incur in relation to timber before the timber is harvested (see [44] to [48]).

Variation of existing forestry rights

124. The bundle of rights contained in a forestry right can be varied. A variation does not create or grant a new right; rather, it merely amends an existing right. A variation of a forestry right is not a disposal of timber or a right to take timber for the purposes of the provisions discussed from [23] to [26].
125. However, any income arising from a variation may be subject to other provisions. For example, as a forestry right is a lease for tax purposes, any lease payments are assessable income. If the forestry right is transferred to another party and an

¹¹⁵ Under s EW 5(9) and it is not a financial arrangement under s EW 3.

inducement payment is made to secure that transfer, there is consideration for a transfer of a lease. This is also assessable income (see [33]).

Sale or transfer of existing forestry rights

126. Forestry rights can be disposed of by sale or other transfer (eg, by way of a settlement of a relationship property agreement). In such cases, it would not be the grantor (the landowner) disposing of the rights. Therefore, no new forestry rights would be created or granted by the owner of the land. However, the vendor (the initial holder of the forestry right) would be disposing of the right to take timber and so the provisions discussed from [23] to [26] apply.
127. These provisions do not apply where the purchaser of the forestry rights owns the land over which the rights were granted. This is because an owner of forestry land cannot grant themselves any more rights in a forestry right than they already have as owners of the land.

Forestry rights over permanent forests

128. There is no set minimum or maximum term for a forestry right. In practice, forestry rights often align with the lifecycle of the forest, which is typically 25 to 35 years. However, with forestry income now extended beyond harvesting trees to include emissions units, forestry rights can potentially be granted for periods longer than a forest lifecycle and may also be granted over "permanent forests".¹¹⁶
129. Permanent forests cannot be harvested for 50 years although limited clearing is allowed in some circumstances. The 50-year period can be extended by one or more consecutive periods of 25 years or a forest can be subsequently registered for the purposes of the Emissions Trading Scheme as a standard forest.
130. Where no clear-felling occurs, there is no disposal of timber for tax purposes. Where a limited amount of felling occurs (within what is allowed under the Emissions Trading Scheme), there may be a disposal of timber if the felled timber is sold or otherwise disposed of. In this case, the provisions discussed from [23] to [26] apply. Forestry right holders who do not harvest trees but earn income from the accumulation of emissions units should refer to IS 25/13 for further information.

¹¹⁶ A "permanent forest" is defined in s 182 of the Climate Change Response (Emissions Trading Reform) Amendment Act 2020.

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