<u>QUESTION 1: Deductions</u>

Outline

To answer this question we must first determine if the expense in question meets the requirements outlined for deductions in the General Permissions (DA1(1)(a) and DA1(1)(b)). Secondly, if they meet the requirements of the General Permissions, we then ensure it is not exempt by General Limitations (DA2(1)(2)(4)) General Permissions as it prohibits the deduction of certain items of expenditure or loss. Thirdly, if it is not exempt by the General Limitations we must ensure it is not excluded by specific rules (e.g S DD: Entertainment expenditure). If the expense passes all three steps, we can determine that the expense is allowable as a deduction.

Laws

<u>General Permissions</u>

•S DA 1(1)(a) – Expenditure incurred in deriving assessable income – find a causal relationship/nexus between expense and income (*CIR v Banks*).
•S DA 1(1)(b) – Expenditure incurred in the course of carrying on a business for the purpose of deriving assessable income.

<u>General Limitations</u>

•S DA 2(1) – Capital limitation. A person is denied a deduction for expense to the extent to which it is of a capital nature. Determine whether it is capital through 6 tests of BP Australia

-BP Australia Limited v FCT :

•The need for the expense?
•Does the expenditure create an identifiable capital asset?
•Paid from fixed capital?
•Not recurring?
•Accounting treatment?
•Part of structure of the business?

•S DA 2(2) – Private limitation. A person is denied a deduction for expense to the extent to which it is of a private or domestic nature.
•S DA 2(4) A person is denied a deduction for an amount of expenditure or loss to the extent to which it is incurred in deriving income from employment. This rule is called the employment limitation.

<u>Specific rules</u>

S DD – Entertainment Expenditure. S DD 1(1) and DD 2(1) provide that a taxpayer who incurs expenditure (or loss) on particular forms of entertainment will only be allowed a deduction of 50 per cent, as outlined in s DD 2.

<u>Case A; Client membership fees of $1200 and Personal membership fees of $1,475</u>

Client membership fees and Personal membership fees meet both DA1(1)(a) and DA1(1)(b) of the General Permissions.
This is because there is a direct relationship between gym membership fees and the income earned from being a Personal Trainer (DA1(1)(a)) as Jesse could not earn income without access to the gym and it was an expense that was incurred in the course of carrying on the business of training clients (DA1(1)(b)).

Gym membership fees are not excluded by any limitations outlined in the General Limitations nor Specific rules.

It is arguable that under S DA 2(2) of the General Limitations, Jesse's personal membership may be considered private or domestic in nature. However, when Jesse goes to the gym, regardless if he is training a client, he is working on his fitness which is a necessary component to his business and its operations. Therefore, it would not be considered private use.

Client membership fees of $1200 and Personal membership fees of $1,475, would be an allowable deduction under General Permissions.

Case B; $5,500 Computer

The training course cost and subscription fees meet DA1(1)(a) and DA1(1)(b) of the General Permissions.
This is because a computer is a cost which has a direct relationship to the income earned from being a Personal Trainer (DA1(1)(a)), as Jesse could not earn income without developing specialist training programmes and it was an expense that was incurred in the course of carrying on the business of training clients (DA1(1)(b)).

s DA 2(1) of Private Limitations states that A person is denied a deduction for expense to the extent to which it is of a capital nature. To determine if a computer is consider capital, we will employ the six step test from BP Australia Limited v FCT (1965).
In accordance to the six step test from BP Australia Limited v FCT (1965) the $5,500 for a computer is a one-off payment, occurring from fixed capital, treated as non-current asset in the balance sheet, and is part of the business structure. Thus, the expenditure is not deductible under s DA 2(1) of capital limitation.

Additionally, accordance to the precedence of Grieve v CIR (1984), a business begins when business activity and profit intention commence. Therefore as Jesse did not begin business activity until 1st September 2019, any expenditure which occurs before this period cannot be deducted.

This computer is not an allowable deduction, this is because it is excluded due to private limitations and because it was obtained prior to the commencement of Jesse's training business.

Case C; Gym clothing $1,800

Gym clothing meets DA1(1)(b) of the General Permissions however it does not meet DA1(1)(a).
This is because gym clothing was an expense that was incurred in the course of carrying on the business of training clients (DA1(1)(b)). However, it does not have a direct relationship with the income earned from being a Personal Trainer, as it does not assist in generating assessable income (DA1(1)(a)).

s DA 2(2) of Private Limitations states that, no deduction is allowed for expense to the extent to which it is of a private or domestic nature.
Because the gym clothing are not distinguishable and can be used outside of Jesse's job, the expenditure is considered private in nature.

Gym clothing cost of $1,800 is not an allowable deduction as its excluded by the Private Limitations. This aligns with the precedence of TRA Case F46 (1983) 6 NZTC 59,792, where it was held by the court that the only expenditure on clothing which necessary and peculiar to the taxpayer's occupation could be considered an allowable deduction.

Case D; $900 Coffee meeting

Coffee meetings meets DA1(1)(b) of the General Permissions however it does not meet DA1(1)(a).
This is because Coffee meetings was an expense that was incurred in the course of carrying on the business of being a personal trainer (DA1(1)(b)). However, it does not have a direct relationship with the income earned from being a Personal Trainer, as it does not assist in generating assessable income (DA1(1)(a)).

Coffee meetings are not excluded by the Private Limitations. However, Specific rules (S DD) specifies that a taxpayer who incurs expenditure (or loss) on particular forms of entertainment will only be allowed a deduction of 50 percent.
SDD 2(5) states that the limitation rule applies to deductions for expenditure on food and drink that a person provides off their business premises. Thus the coffee meeting expenditure of $900 is only allowed a deduction of 50 percent.

Coffee meeting is an allowable deduction under General Permissions, however in accordance to Specific rules Jesse is only allowed to deduct $450 for coffee meeting expenses.

Case E; $20 Electricity costs

Electricity costs meet both DA1(1)(a) and DA1(1)(b) of the General Permissions.
This is because there is a direct relationship between electricity costs and the income earned from being a Personal Trainer (DA1(1)(a)) as Jesse could not earn income without doing administrative tasks and it was an expense that was incurred in the course of carrying on the business of training clients (DA1(1)(b)).

s DA 2(2) of Private Limitations states that no deduction is allowed for expense to the extent to which it is of a private or domestic nature. Because electricity is not exclusively used at the flat it could be argued to fall under s DA 2(2).
However, based on the precedence of CIR v Banks (1978), where the Court of Appeal held that expenses which had private and business characteristics were deductible if they were apportioned and Buckley & Young Ltd v CIR (1978), where the words 'to the extent to which' in DA1 held to allow for apportionment, Jesse could deduct the additional electricity cost of $20 as the expense would not have been incurred had Jesse not chose to do his administration at home.

The apportioned electricity cost of $20 is an allowable deduction under General Permissions.

Case F; $270 unpaid amount

The unpaid amount does not meet DA1(1)(a) nor DA1(1)(b) of the General Permissions.
The unpaid amount of $270 is a not an absolute loss for the Jesse as the client has not paid the outstanding balance but Jesse is yet to write off the $270 as bad debt - Usually, business will only write this as provision of doubtful debts as there is still potential for the client to partially or fully meet their financial obligations.
Therefore, the unpaid amount does not have the necessary relationship with both the taxpayer concerned and the gaining or producing of his assessable income as it is yet to occur (not written off in the financial statements DB 31 (1) (a) (i)) hence it does not meet DA1(1)(a) or DA1(1)(b) of the General Permissions.

The unpaid amount of $270 is not deductible as it does not meet the requirements of the General Permissions as it is of yet to occur. This aligns with the precedence of Mitsubishi Motors New Zealand Ltd v CIR (1993) where the court held that for an expense to be considered ‘incurred’ the taxpayer must have either paid or been definitely committed to the expenditure.

Case G;

The training course cost and subscription fees meet DA1(1)(a) and DA1(1)(b) of the General Permissions.
This is because training course cost and subscription fees are cost which have a direct relationship to the income earned from being a Personal Trainer (DA1(1)(a)) as Jesse could not earn income without health and fitness knowledge and it was an expense that was incurred in the course of carrying on the business of training clients (DA1(1)(b)).

Training course cost and subscription fees are not excluded by any limitations outlined in the General Limitations nor Specific rules.
However, in accordance to the precedence of Grieve v CIR (1984), a business begins when business activity and profit intention commence, therefore as Jesse did not begin business activity until 1st September 2019 any expenditure which occurs before this period cannot be deducted.

Training course cost of $3,500 occurred before Jesse started his training business therefore it is not deductible. Additionally, Depending on when Jesse started his subscription for membership of the New Zealand Institute of Health and Fitness, any months of subscription payable before the business commencement date is not deductible and in accordance of Buckley & Young Ltd v CIR (1978), where the words ‘to the extent to which’ in DA1 held to allow for apportionment, the yearly subscription fee would be apportioned.
We will assume that membership fees commenced at the end of the training period thus Jesse is eligible for a deduction of $300 ((12 - 3 months (june, july, august)/12)*400) in his first year of operations and $400 any year after.

Conclusion

Case A: $1200 Client membership fees and $1,475 Personal membership fees is deductible.
Case B: Computer $5,500 is not deductible.
Case C: Gym clothing $1,800 is not deductible.
Case D: Coffee meeting $450 is deductible (apportioned amount).
Case E: Electricity $20 is deductible.
Case F: Unpaid fees $270 is not deductible.
Case G: Training $3,500 is non deductible, Membership $300 (apportioned amount) deductible for first year of operations ($400 following years).

QUESTION 2: Depreciation

Definition and Law

Depreciation is a deduction (at a prescribed rate) for the cost of a capital asset that is progressively allowed over the estimated useful life of that asset.

Statutory Entitlement to Deduction:

DA 1 – General Permission: permits Tax payers to treat depreciation as an expense.
DA 2 – General Limitations:
DA 2 (1) Capital Limitations: restricts deduction claims for capital expenditure.
DA 3 – Effect on Specific Rules on General Rules: allows DA 4 to override DA 2 (1)
DA 4 – Depreciation Loss: overrides the capital limitation DA 2 (1)

Claiming depreciation as a deduction:

Section EE 1(2):
-Person must own the property
-Property must be used or available for use in the income year
-Property must be depreciable property

Ownership

-Ownership of property means legal or equitable ownership

> We know that Marni owns all the assets in the table as at 1 April 2019, and we are assuming that the new assets that have been purchased in the 2019/20 year are now owned by Dominic.

Used or available for use:

-If asset is not available for use it cannot be depreciated
-EE 10: if temporarily unavailable for repair or inspection, will be treated as available for use
-Apportion on a monthly basis if asset is only partly used during the year

>We know that the property given in the table is used exclusively in cheese shop. The new purchased property in question is assumed to be for cheese shop use and is used or available to use in this financial year.

Depreciable property EE 6 (1)

-Property has to be 'depreciable property' to be depreciated
-Depreciable property is 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
-Exclusions:
  -Land (except for land improvements section 13)
  -Trading stock
  -Franchise Fee
  -Intangible Assets

> All the assets Marni has or is purchasing in the 2019/20 year are assets that will likely lose value over time, they are also all related to his running of the business and the deriving of income and are not excluded by EE 6.

Depreciation method

STRAIGHT-LINE (S/L) METHOD

The method of calculating an amount of depreciation loss for an item of depreciable property by subtracting in each income year, a CONSTANT percentage of the item's cost, from the item's adjusted tax value.

DIMINISHING VALUE (DV) METHOD
The method of calculating an amount of depreciation loss for an item of depreciable property by subtracting in each income year, a CONSTANT percentage of the item's adjusted tax value from the item's adjusted tax value.

POOL METHOD
•The purpose of pool method is to reduce compliance costs.
•Only 'poolable property' can be used with the pool method (EE 12(2)(c)).
•The maximum ATV of the individual asset (or purchase price) is $5,000 or less.
•Must use diminishing value method (DV).
•Must use the lowest DV rate in either one pool items.
•Once the pool method is used, we cannot change methods.

Churn
•The churn was sold for $12,000 on 1 July 2019
•No Depreciation Expense for the 2019 year as that was the year it was sold.
•The churn was sold for $3000 less than its adjusted tax value as at 1 April 2019.
•The $3000 is a loss on sale. This is a DEDUCTION at the bottom of the income statement.
•The loss is a fully deductible expense on the income statement as long as the asset is also written off on the asset schedule and balance sheet. Thus Marni will be able to claim $3,000 as a depreciation deduction.

Cost	**Opening ATV**	**Sale**	**(Loss)**	**Depreciation**	**Closing ATV**
$20,000	$15,000	$12,000	(3000)	0	0

Homogeniser
•The Homogeniser was sold for $5,500 on 1 January 2020
•No Depreciation Expense for the 2020 year as that was the year it was sold.
•The churn was sold for $1500 more than its adjusted tax value as at 1 April 2019.
•The $1500 capital gains is non taxable. We can assume that Marni didn't purchase the cabinet with the intention of making a profit.
•Marni has $1,500 in depreciation recovery income.

Cost	Opening ATV	Sale	Gain	Depreciation	Closing ATV
$5,000	$4,000	$5,500	$1,500	0	0

Vats
•Four new Vats were purchased on 15 October 2019 for a total of $6,000 ($1500*4)
•A new pool was created for these Vats.
•Opening ATV will be $0.
•Closing will be $6000 as nothing that we know of was taken in or out.
•Must be Diminishing Value as all pooled assets must use DV at the lowest rate of the Pool.
•Must be depreciated at 8% as there is only one type of asset in the pool.
•Marni will be able to claim $240 as a depreciation deduction.

Calculation of Depreciation (Pool Method)
a = lowest annual depreciation rate (DV) = 0.08
b = opening adjusted tax value (of the pool) = $0
c = closing adjusted tax value (of the pool) = $6,000
d = number of months in tax year = 12

Depreciation deduction = a x [(b + c)/2] x (d/12)
Depreciation deduction = 0.08 x [(0 + 6,000)/2] x (12/12)
Depreciation deduction = $240

Cheese maturing boards
•New Cheese maturing boards were purchased on 1 September 2019 for $4,000. These were added to the existing pool (Use the ATV of existing Cheese maturing boards of $12,000 as the Opening ATV)
•Closing ATV: $4,000 + 12,000 = $16000
•Must be Diminishing Value as all pooled assets must use DV at the lowest rate of the Pool.
•Must be depreciated at 30% as there is only one type of asset in the pool.
•Marni will be able to claim $4,200 as a depreciation deduction.

Calculation of Depreciation (Pool Method)
a = lowest annual depreciation rate (DV) = 0.3
b = opening adjusted tax value (of the pool) = $12,000
c = closing adjusted tax value (of the pool) = $16,000
d = number of months in tax year = 12

Depreciation deduction = a x [(b + c)/2] x (d/12)
Depreciation deduction = 0.3 x [(12,000 + 16,000)/2] x (12/12)
Depreciation deduction = $4200

Refrigeration equipment
•There was no change in the existing Refrigeration asset
•Calculate depreciation using either DV or S/L depreciation method that maximises depreciation claim
•Straight-line depreciation produces the highest depreciation deduction of $510

Type	ATV or Cost	Period	Calculation	Depreciation Deduction
DV rate: 13%	3000	12	0.13*3000*12/12	390
SL rate: 8.5%	6000	12	0.085*6000*12/12	510

Packaging machine
•A packaging machine was purchased for $450 on 15 June 2019 - this is a new asset
•Calculate depreciation using either DV or S/L depreciation method that maximises depreciation claim
•Diminishing value depreciation produces the highest depreciation deduction of $46

Type	ATV or Cost	Period	Calculation	Depreciation Deduction

DV rate: 13%	450	9.5	0.13*450*9.5/12	46.3125
SL rate: 8.5%	450	9.5	0.085*6000*9.5/12	30.28125

<u>Pasteuriser</u>

•A new pasteuriser was purchased on 15 December 2019 at a cost of $6,000
•Calculate depreciation using either DV or S/L depreciation method that maximises depreciation claim
•Diminishing value depreciation produces the highest depreciation deduction of $350

Type	ATV or Cost	Period	Calculation	Depreciation Deduction
DV rate: 20%	6000	3.5	0.2*6000*3.5/12	350
SL rate: 13.5%	6000	3.5	0.135*6000*3.5/12	236.25

Conclusion

Churn; Claimable loss on Sale = $3000
Homogeniser; Depreciation recovery income = $1500
Vats; Depreciation deduction = $240
Cheese maturing boards; Depreciation deduction = $4,200
Refrigeration equipment; Depreciation deduction = $510
Packaging machine; Depreciation deduction = $46
Pasteuriser; Depreciation deduction = $350
Annual Depreciation Deduction for the year ended 31 March 2020 = $6,846

QUESTION 3

Current System

Every person in New Zealand is subject to the same amount of GST of 15% on the same goods (GST Act 1985 s 8).
Its broad base nature (15% GST for all goods and services) allows a relatively large amount of revenue for the government to be collected at a low rate.
Its lack of exemptions, avoids distortion of purchasing behaviour, creating a fair & even playing field for retailers and creates certainty in what to pay and claim GST on.

Analysis (a)

Efficiency

Efficiency refers to the idea that the cost of collecting taxes should be minimised. That means the government has to ensure that the collection of taxes only requires the least possible expenditure. Additionally, compliance with tax legislation should not be a heavy burden on the taxpayer.
Removing tax for healthy food items effects economic participants in differing ways.
For the government, this proposal effects the broad base system which increases the amount of expenditure required to collect taxes. This reduces efficiency.
For business owners, this proposal effects the ease of complying with tax legislation as it requires a greater investment to work out tax liability (effects the broad base system). Additionally, its distorts the market by creating a competitive advantage for certain retailers and reduces certainty (introduces exemptions). This reduces efficiency.
For Consumers, there is no significant change as they are not subject to the burden of sales tax liability.

Equity

Equity refers to tax policy being compatible with taxpayers' conditions. Taxes should not be arbitrary or inequitable in such a way that individuals in similar financial situations receive dissimilar treatment (Horizontal equity) (TWG, 2018). Additionally, When taxpayers are in different financial situations they should be treated differently (Vertical equity) (TWG, 2018).
Removing tax for healthy food items effects economic participants in differing ways.
For the government, there is not a significant change in equity as they are not directly effected by fluctuation in taxation.
For business owners, this proposal effects the broad base system thus it is likely to be observed as inequitable. For producers of healthy foods removing tax creates a competitive advantage by reducing sales price against producers of unhealthy foods. By creating exemptions we decrease horizontal equity as producers who are in similar situations are treated differently based on the products they supply.
For Consumers, this proposal does not create significant changes as all individuals are subject to the same level of tax (Horizontal equity). However, it is suggested that this proposal may create greater vertical equity as low income taxpayers who spend a greater proportion of their income on food will receive more benefits (Regional Public Health, 2010).

Certainty

Certainty refers to the idea that taxes should be clear and transparent. That means everybody should know or quickly find out how much they have to pay, when they have to pay, and how they have to pay their taxes.
Removing tax for healthy food items effects economic participants in differing ways.

For the government, this proposal introduces exemptions which means that more regulations would need to be introduces to regulate GST, this creates uncertainty as it is often observe that regulations do not often encompass all possible situations (introduces possibilities of loopholes).
For business owners, this proposal introduces exemptions which means that more time and investment is required in understanding how to navigate their GST liability. This is likely to create uncertainty initially as the proposal is introduced.
For Consumers, there is no significant change as they are not subject to the burden of sales tax liability.

Recommendation (b)
I believe the proposal should not be implemented unless it is found that the benefits of increase consumption in healthy food exceeds the costs listed below.
A good tax system must fulfil certain principles if it is to raise adequate revenue and fulfil certain social objectives the proposal does not support efficiency, equity nor equity.
Efficiency is negatively effected as the benefits of the broad based system is diminished when we introduce exceptions - this means the government and business owners are negatively impacted as a additional costs are created from these exceptions.
Equity is negatively effected as introduction of tax exemptions means that there may be a distortion of purchasing behaviour, created by the competitive advantage healthy food producers gain from the exemption. This means that in terms of horizontal equity producers in similar situations are treated differently.
Certainty is negatively effected as the benefits of the broad based system is diminished when we introduce exceptions - this means the government and business owners are negatively impacted as new and complex regulations would need to be introduced which would decrease certainty.

Reference
Regional Public Health. (2010). *FOOD COSTS FOR FAMILIES*. Retrieved from https://www.rph.org.nz/content/ccfb2dc8-4129-4d02-b1ff-ab29f82472b9.cmr#:~:text=Findings%20suggest%20that%20most%20families,a%20'basic'%20healthy%20diet.

Tax Working Group. (2018). *GST: Background Paper for Session 2 of the Tax Working Group.* Retrieved from https://taxworkinggroup.govt.nz/sites/default/files/2018-09/twg-bg-gst.pdf

<u>QUESTION 4; Land Sales</u>

<u>Overview</u>

We will firstly assess each case through CB 6, 7, 11 and 12 to determine if the case would be income after exemptions have been considered - this is then followed CB 13 and 6A which are only applicable if the case is not found to be taxable under CB 6 to 12.

Land Law

<u>CB 6;</u> Land acquired for the purpose or intention of resale

<u>CB 6A</u>; Disposal of residential land under bright-line test

Considered income if:

- -sold within 2 years (from 1 October 2015)
- -sold within 5 years (from 29 March 2018)
- -sold within 10 years (from 27 March 2021)

>CB 6A(13); Only applies if CB 6 to CB 12 do not apply.

<u>CB 7</u>; Deals with occupation of taxpayer (or associated person) when land is acquired

- (a) Land dealers
  - -CB 7 (a) must be read together with CB 9
- (b) Land developers/dividers
  - -CB 7 (b) must be read together with CB 10
- (c) Land builders
  - (i) at the time person A acquired the land they, or an associated person, carried on a business of erecting buildings; and
  - (ii) person A acquired the land for the purpose of the business; and
  - (iii) before or after acquiring the land person A, or the associated person, made improvements to it.
  - -CB 7 (c) must be read together with CB 11

> CB 7(a) (and thus CB 9) and CB 7(b) (and thus CB 10) is not applicable as Wiremu is neither a land dealer or Land developers/dividers. However, CB 7(c) (and thus CB 11) is applicable as Wiremu is a builder.

<u>CB 11</u>; Disposal within 10 years of improvement: building business

(1) An amount that a person derives from disposing of land is income of the person if they dispose of the land and—

- (a) within 10 years before the disposal, the person or an associate of the person completed improvements to the land; and
- (b)at the time the improvements were begun,—
  - (i)the person carried on a business of erecting buildings:
  - (ii)an associate of the person carried on a business of erecting buildings.

<u>CB 12</u>; schemes for development or division begun within 10 years

- (a) an undertaking or scheme, which is not necessarily in the nature of a business, is carried on; and
- (b) the undertaking or scheme involves the development of the land or the division of the land into lots; and
- (c) the person, or another person for them, carries on development or division work on or relating to the land; and
- (d) the development or division work is not minor; and
- (e) the undertaking or scheme was begun within 10 years of the date on which the person acquired the land.

<u>CB 13;</u> amount from major development or division and not already in income

- (b) the amount is derived in the following circumstances:
  - (i) an undertaking or scheme, which is not necessarily in the nature of a business, is carried on; and

(ii) the undertaking or scheme involves the development of the land or the division of the land into lots; and
(iii) the person, or another person for them, carries on development or division work on or relating to the land; and
(iv) the development or division work involves significant expenditure on channelling, contouring, drainage, earthworks, kerbing, levelling, roading, or any other amenity, service, or work customarily undertaken or provided in major projects involving the development of land for commercial, industrial, or residential purposes.

>CB 13(a); Only applies if CB 6 to CB 12 do not apply.

Exemptions
CB 16: Residential exclusion
CB 19: Business premises
CB 17: Residential exclusion
CB 20: Business premises
CB 21: Farmland
CB 23: Investment
CB 16A: Main home

<u>CASE 1</u>

<u>Information</u>
>15 January 2016, Wiremu purchased an apartment in central Wellington for his daughter to use as a residence while studying at university, The apartment cost $500,000
>Wiremu sold the apartment for $800,000 on 1 July 2019.

<u>CB 6</u>
Wiremu's intention for the property was to use the apartment as a residence for his daughter during her studies. Disposing of the property was not an additional incentive for acquiring the property.
The $800,000 is not taxable income under s CB 6 as Wiremu did not have an intention of resale during acquisition.
>Exemptions CB 16 and CB 19 do not apply to CB 6 as the gains are not taxable.

<u>CB 7(c)</u>
Wiremu is a Builder (meets condition CB 7(c)(i)), Wiremu however did not acquire the apartment for business purposes (purchased for daughter to reside in) nor did he make any improvements to the property (does not meet condition CB 7(c)(ii) and (iii)).
The $800,000 is not taxable income under s CB 7(c) as Wiremu did not meet the required conditions outlined in this section.
>Exemptions CB 16 and CB 19 do not apply to CB 7(c) as the gains are not taxable.

<u>CB 11</u>
No improvements were made by Wiremu or an associated person on the apartment.
The $800,000 is not taxable income under s 11 as Wiremu did not meet the required conditions outlined in this section.
>Exemptions CB 16 and CB 19 do not apply to CB 11 as the gains are not taxable.

<u>CB 12</u>
No developments/division schemes were undertaken on the property.

The $800,000 is not taxable income under s 12 as Wiremu did not meet the required conditions outlined in this section.
>Exemptions CB 17, 20, 21 and 23 do not apply to CB 12 as the gains are not taxable.

CB 13
No major development or division were undertaken on the property.
The $800,000 is not taxable income under s 13 as Wiremu did not meet the required conditions outlined in this section.
>Exemptions CB 17, 20, 21 and 23 do not apply to CB 13 as the gains are not taxable.

CB 6A
Wiremu purchased the property on 15 January 2016 and sold the property 1 July 2019. This is around 3.5 years - in accordance to the CB 6A properties disposed of within 2 year from 1 October 2015 are taxable.
As Wiremu sold the property after the 2 year period, The $800,000 is not taxable income under s 6A as Wiremu did not meet the required conditions outlined in this section.
> Exemptions CB 16A (Main home) is not applicable to CB 6A as the gains are not taxable - nor is the property the main home of Wiremu.

Summary
The $800,000 gained from the sale of the apartment is not considered income - thus is not taxable.

CASE 2
Information
>On 1 September 2019, Wiremu used the proceeds from the sale of the apartment to buy a townhouse for his own use in Oriental Parade. The townhouse cost $1.1 million
>Wiremu lived in the townhouse for around six months, during which time he changed the internal layout to add a walk-in wardrobe to one of the bedrooms.
>Wiremu moved out and rented the property to tenants. The tenants stayed for a year and then Wiremu sold the townhouse on 1 March 2021 for $1.5 million.

CB 6
Wiremu's intention for the property was to use the townhouse as his primary residence. Disposing of the property was not an additional incentive for acquiring the property.
The $1.5 million is not taxable income under s CB 6 as Wiremu did not have an intention of resale during acquisition.

CB 7(c)
Wiremu is a Builder and made significant improvements to the property 'add a walk-in wardrobe' (meets condition CB 7(c)(i) and (iii)). However, he did not acquire the apartment for business purposes (purchased for daughter to reside in) (does not meet condition CB 7(c)(ii)).
The $1.5 million is not taxable income under s CB 7(c) as Wiremu did not meet the required conditions outlined in this section.
>Exemptions CB 16 and CB 19 do not apply to CB 7(c) as the gains are not taxable.

CB 11
Improvements were made within 10 years before disposal assuming they were completed 1 March 2019 as the property was sold 1 March 2021 (1 year after improvements were completed) and when the improvements began Wiremu was a builder.

The $1.5 million is taxable income under s CB 11 as Wiremu meets the required conditions outlined in this section.
>The property does not qualify for an exemption, firstly this is because while the property was acquired with a dwelling-house, the house was not mainly occupied by Wiremu (6 months occupied by Wiremu, 1 year occupied by tenants). Hence the conditions of CB 16 is not met. Secondly, the property was not used as a business premise - hence the condition for CB 19 is not met.

<u>CB 12</u>
No developments/division schemes were undertaken on the property.
The $1.5 million is not taxable income under s 12 as Wiremu did not meet the required conditions outlined in this section.
>Exemptions CB 17, 20, 21 and 23 do not apply to CB 12 as the gains are not taxable.

<u>CB 13</u>
No major development or division were undertaken on the property.
The $1.5 million is not taxable income under s 13 as Wiremu did not meet the required conditions outlined in this section.
>Exemptions CB 17, 20, 21 and 23 do not apply to CB 13 as the gains are not taxable.
>This provision is only applicable if CB 6 to CB 12 do not apply. As CB 11 applies this is not valid.

<u>CB 6A</u>
Wiremu purchased the property on 1 September 2019 and sold the property 1 March 2021. This is around 1.5 years - in accordance to the CB 6A properties disposed of within 5 year from from 29 March 2018 are taxable.
As Wiremu sold the property before the five year period, The $1.5 million is taxable income under s 6A as Wiremu did meets the required conditions outlined in this section.
>The property does not qualify for an exemption, firstly this is because while the property was acquired with a dwelling-house, the house was not mainly occupied by Wiremu (6 months occupied by Wiremu, 1 year occupied by tenants). Hence the conditions of CB 16A (Main home) is not met.
>This provision is only applicable if CB 6 to CB 12 do not apply. As CB 11 applies this is not valid.

Summary
The $1.5 million gained from the sale of the townhouse is considered income under CB 11 - thus is taxable

<u>CASE 3</u>
<u>Information</u>
>On 1 June 2018, Wiremu decided to sub-divide his family beach property in Waikanae, which had been owned since 1998
>The sub-division required a high level of expenditure on drainage and roading.
>The family home is on one lot, the other two lots were sold for $200,000 each on 1 February 2019.

<u>CB 6</u>
Wiremu's intention for the property was to use the family beach property for family get-togethers and holidays. Disposing of the property was not an additional incentive for acquiring the property.

The $400,000 for the subdivide lot is not taxable income under s CB 6 as Wiremu did not have an intention of resale during acquisition.

CB 7(c)
Wiremu is a Builder (meets condition CB 7(c)(i)), Wiremu however did not acquire the apartment for business purposes (likely inherited with intention to keep in family) nor did he make any improvements to the property (does not meet condition CB 7(c)(ii) and (iii)).
The $400,000 is not taxable income under s CB 7(c) as Wiremu did not meet the required conditions outlined in this section.
>Exemptions CB 16 and CB 19 do not apply to CB 7(c) as the gains are not taxable.

CB 11
No improvements were made by Wiremu or an associated person on the apartment.
The $400,000 is not taxable income under s 11 as Wiremu did not meet the required conditions outlined in this section.
>Exemptions CB 16 and CB 19 do not apply to CB 11 as the gains are not taxable.

CB 12
Wiremu entered into a scheme to make a profit from subdividing the excess land on his property.
Wiremu hires a surveyor who was employed to draw up the necessary plans for sub-division.
Wiremu then sub-divides the land into three lots, selling two empty lots and keeping one of which holds the dwellings.
There was significant work and expenditure invested into the subdivision to create drainage and roading.
However the scheme was started on 1 June 2018 which is after 10 years of the date on which Wiremu acquired the land in 1998.
The $400,000 is not taxable income under s 12 as Wiremu did not meet the required conditions outlined in this section.
>Exemptions CB 17, 20, 21 and 23 do not apply to CB 12 as the gains are not taxable.

CB 13
Wiremu entered into a scheme to make a profit from subdividing the excess land on his property.
Wiremu hires a surveyor who was employed to draw up the necessary plans for sub-division.
Wiremu then sub-divides the land into three lots, selling two empty lots and keeping one of which holds the dwellings.
There was significant work and expenditure invested into the subdivision to create drainage and roading.
The $400,000 is taxable income under s 13 as Wiremu met the required conditions outlined in this section.
>Exemptions CB 17, 20, 21 and 23 do not apply to CB 13 as the divided land is not resided in by Wiremu nor was it 4500 square metres prior to the subdivision (does not meet conditions of CB 17), the divided land is not used as a business premise (does not meet conditions of CB 20), the divided land is not used as farmland (does not meet conditions of CB 21), and the divided land is not an investment as Wiremu is not deriving income from the land (does not meet conditions of CB 23).

CB 6A

Wiremu has had possession of the property since 1998 and sold the property 1 February 2019. This is around 20 years - this is well over any specified period in CB 6A.
The $400,000 is not taxable income under s 6A as Wiremu did not meet the required conditions outlined in this section.
>The property does not qualify for an exemption, firstly this is because while the property was acquired with a dwelling-house, the house was not mainly occupied by Wiremu. Hence the conditions of CB 16A (Main home) is not met.

Summary
The $400,000 gained from the sale of the subdivided property is considered income under CB 13 - thus is taxable.