

Briefing note

Reference: BN2019/377

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To: Revenue Advisor, Minister of Revenue – s 9(2)(a)
Private Secretary, Minister of Revenue – s 9(2)(a)

cc: Naomi Ferguson, Commissioner
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Subject: **Speaking notes for LEG Cabinet Committee meeting on 20 August 2019**

Background

1. This briefing note contains speaking notes for the Minister of Revenue to use at the Cabinet Legislation Committee meeting on 20 August 2019.
2. The Cabinet Legislation Committee will consider an Order in Council to set the deemed rate of return for the 2018–19 income year (report IR2019/350 refers).
3. The deemed rate of return is set by the Income Tax (Deemed Rate of Return on Attributing Interests in Foreign Investment Funds, 2018–19 Income Year) Order 2019.

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Speaking notes

Cabinet Legislation Committee (LEG)
20 August 2019

Paper: Income Tax (Deemed Rate of Return on Attributing Interests in Foreign Investment Funds, 2018–19 Income Year) Order 2019

Proposal

- The proposal is that the Cabinet Legislation Committee authorise the submission to the Executive Council of the Income Tax (Deemed Rate of Return on Attributing Interests in Foreign Investment Funds, 2018–19 Income Year) Order 2019.
- The formula for setting the rate was approved by Cabinet in 1994 and has been used ever since.
- It is proposed that the deemed rate of return be set at 5.86% for the 2018–19 income year. This is a reduction from the rate for the 2017–18 income year of 6.44%.
- The equivalent Order for the 2017–18 year should be revoked but continue to have effect for that income year.

Background

- The foreign investment fund (FIF) rules tax New Zealand residents on certain non-controlling investments in foreign companies, foreign superannuation schemes, and life insurance policies.
- The deemed rate of return method is one of five methods for calculating FIF income. The deemed rate of return method is used where:
 - the FIF interest consists of certain non-ordinary shares with debt-like properties; and
 - the taxpayer cannot use the comparative value method because the market value of the FIF interest cannot be determined at the end of the income year.

Calculation

- The formula for calculating the deemed rate of return is:
 - the average of the five-year “risk-free” government bond rates at the end of each quarter of the income year + a risk premium margin of four percentage points.

Previous rates

- 2017–18 rate: 6.44%
- 2016–17 rate: 6.28%
- 2015–16 rate: 6.77%