

In Confidence

Office of the Minister of Revenue

Chair, Cabinet

TAXATION (USE OF MONEY INTEREST RATES) AMENDMENT REGULATIONS 2020

Proposal

1. This paper seeks Cabinet's agreement to submit an Order in Council amending the Taxation (Use of Money Interest Rates) Regulations 1998 to the Executive Council.
2. It is proposed to amend the regulations so that the use of money interest (UOMI) rate on underpayments of tax is set at 7.00% and the UOMI rate on overpayments of tax is set at 0.00%.

Policy

3. The UOMI rates play an important role in the tax compliance rules. By moving in line with underlying market rates, the UOMI rates provide taxpayers with the incentive to pay the right amount of tax at the right time. The rates apply to all revenue and duties.
4. The Tax Administration Act 1994 provides for the UOMI underpayment and overpayment rates to be set by Order in Council. Once the rates are set, they remain the prescribed UOMI rates unless subsequently changed by Order in Council. The methods for calculating the rates are set out in the Taxation (Use of Money Interest Rates Setting Process) Regulations 1997 (the Regulations).
5. The Regulations provide that the rate of UOMI for underpaid tax should be set at the latest Reserve Bank of New Zealand (RBNZ) floating first mortgage new customer housing rate plus 250 basis points. The floating first mortgage new customer housing rate reflects the variable interest rate offered by surveyed institutions to new borrowers for residential property, weighted by each surveyed institution's total lending outstanding for housing purposes.
6. The Regulations provide that the rate of UOMI for overpaid tax should be set at the higher of 0% and the latest RBNZ 90-day bank bill rate less 100 basis points. The 90-day bank bill rate is the monthly average of the daily standard rates.
7. The current UOMI underpayment and overpayment rates are 8.35% and 0.81% respectively. The UOMI rates were last changed by Order in Council with effect from 29 August 2019 and were based on the interest rates for April 2019.
8. The RBNZ interest rates for March 2020 indicate that the floating first mortgage new customer housing rate and the 90-day bank bill rate have changed by 135 basis points and 110 basis points respectively since the rates were last adjusted. I consider that an adjustment of the UOMI rates is necessary to avoid a long-term misalignment.

9. Therefore, I recommend that the rate of UOMI on underpayments be changed to 7.00% and the rate of UOMI on overpayments be changed to 0.00%.

Timing and 28-day rule

10. I propose that Cabinet gives approval to the Order in Council giving effect to the changes in UOMI rates and authorises its submission to the Executive Council at its meeting on 4 May 2020. In order to minimise compliance and administrative costs, it is proposed that the new rates of UOMI come into force on 8 May 2020, the day after the due date for the third standard instalment of provisional tax.
11. To achieve a commencement date of 8 May 2020, I recommend that the 28-day rule be waived for the coming into force of these regulations. I note that the decrease in the rate of UOMI on underpayments of tax may assist some taxpayers through the economic impacts of COVID-19 that are liable for UOMI but not eligible for UOMI remission. If the 28-day rule is not waived, then these changes could only come into force on 29 August 2020 as per the standard provisional tax due dates. This means that taxpayers liable for UOMI would not be able to benefit from the lower underpayment rate in the short term. I recommend that these changes come into force at the earliest possible date and so the 28-day rule should therefore be waived.

Compliance

12. The regulations comply with the principles, Acts, guidelines, and requirements set out below as follows:
 - 12.1 the principles of the Treaty of Waitangi;
 - 12.2 the rights and freedoms contained in the [New Zealand Bill of Rights Act 1990](#) and the [Human Rights Act 1993](#);
 - 12.3 the principles and guidelines set out in the [Privacy Act 1993](#);
 - 12.4 relevant international standards and obligations; and
 - 12.5 the [Legislation Guidelines](#) (2018 edition), which are maintained by the Legislation Design and Advisory Committee.

Regulations Review Committee

13. There are no anticipated grounds for the Regulations Review Committee to draw the attached regulations to the attention of the house.

Certification by Parliamentary Counsel

14. The Parliamentary Counsel Office has certified that the attached regulations are in order for submission to the Executive Council.

Impact Analysis

15. A Regulatory Impact Assessment is not required as the proposal is of a minor and routine nature and does not substantially alter existing arrangements.

Financial implications

16. The proposal is estimated to result in a net positive fiscal impact of \$83 million over the forecast period with the effective date of 8 May 2020. This is because the decrease in tax revenue from changes to the underpayment and overpayment rates is outweighed by a decrease in impairment expenditure (more taxpayers will be able to repay their tax debt with a lower underpayment rate so less UOMI is written off).
17. Over the forecast period, the fiscal saving from paying less on overpayments is \$124 million, which is outweighed by the fiscal cost of charging less on underpayments of \$203 million. The net effect is \$79 million in lower revenue over the forecast period (comprising \$3 million less revenue in the 2019/20 fiscal year and \$19 million less revenue in each other year), as shown below:

Vote Revenue Minister of Revenue	\$ millions increase (decrease)				
	2019/20	2020/21	2021/22	2022/23	2023/24 & outyears
Crown Revenue and Receipts: Tax Revenue	(3.000)	(19.000)	(19.000)	(19.000)	(19.000)
Total Operating	3.000	19.000	19.000	19.000	19.000

18. The decrease in the underpayment rate results in a decrease in expenditure for impairment of debt and debt write-off costs. Revenue from the underpayment rate is impaired by 80% in the Crown accounts to reflect that most UOMI charged is never paid. The total reduction in impairment expenditure is \$162 million over the forecast period. This impact on appropriations is shown below:

Vote Revenue Minister of Revenue	\$ millions increase (decrease)				
	2019/20	2020/21	2021/22	2022/23	2023/24 & outyears
Non-Departmental Other Expense: Impairment of debt and debt write-offs (funded by Revenue Crown)	(6.000)	(39.000)	(39.000)	(39.000)	(39.000)
Total Operating	(6.000)	(39.000)	(39.000)	(39.000)	(39.000)

19. The overall effect of the decrease in revenue of \$79 million and the decrease in impairment expenditure of \$162 million is a positive net fiscal impact of \$83 million.

Publicity

20. I will issue a media statement once the regulations are made by the Executive Council.
21. Inland Revenue will publish an article about these changes in its *Tax Information Bulletin*.

Proactive release

22. I propose to proactively release this Cabinet paper, associated minutes, and key advice papers with appropriate redactions within 30 working days of Cabinet making final decisions.

Consultation

23. Inland Revenue and the Treasury have been consulted in the preparation of this paper and agree with its recommendations.

Recommendations

The Minister of Revenue recommends that Cabinet:

1. **agree** that the use of money interest rate on underpayments of tax be changed to 7.00% from 8.35%;
2. **agree** that the use of money interest rate on overpayments of tax be changed to 0.00% from 0.81%;
3. **agree** that the Taxation (Use of Money Interest Rates) Amendment Regulations 2020 give effect to the new rates referred to in recommendations 1 and 2 above;
4. **note** that a waiver of the 28-day rule is sought:
 - 4.1 so that the regulations can come into force on 8 May 2020;
 - 4.2 on the grounds that this will allow the regulations to be in force for the day immediately following the next standard instalment of provisional tax, which will have the benefit of providing support for some taxpayers to help cushion the economic impacts of COVID-19;
5. **agree** to waive the 28-day rule so that the regulations can come into force on 8 May 2020;
6. **note** the following changes as a result of the decision in recommendations 1 and 2 above, with a corresponding impact on the operating balance:

		\$ millions increase (decrease)			
Vote Revenue Minister of Revenue	2019/20	2020/21	2021/22	2022/23	2023/24 & outyears
Crown Revenue and Receipts: Tax Revenue	(3.000)	(19.000)	(19.000)	(19.000)	(19.000)
Total Operating	3.000	19.000	19.000	19.000	19.000

7. **approve** the following forecast change in appropriations for Non-Departmental Other Expense as a result of the decision in recommendations 1 and 2 above, with a corresponding impact on the operating balance:

		\$ millions increase (decrease)			
Vote Revenue Minister of Revenue	2019/20	2020/21	2021/22	2022/23	2023/24 & outyears
Non-Departmental Other Expense: Impairment of debt and debt write-offs (funded by Revenue Crown)	(6.000)	(39.000)	(39.000)	(39.000)	(39.000)
Total Operating	(6.000)	(39.000)	(39.000)	(39.000)	(39.000)

8. **authorise** the submission to the Executive Council of the Taxation (Use of Money Interest Rates) Amendment Regulations 2020.

Authorised for lodgement

Hon Stuart Nash
Minister of Revenue