

POLICY AND STRATEGY

Tax policy report: Cabinet paper: Use of money interest rates review

Date:	24 April 2020	Priority:	High
Security level:	In Confidence	Report number:	IR2020/223

Action sought

	Action sought	Deadline
Minister of Revenue	<p>Agree to recommendations</p> <p>Note the fiscal impacts</p> <p>Sign and refer the attached paper to Cabinet Office for consideration at Cabinet on 4 May 2020</p> <p>Refer a copy of this report to the Minister of Finance</p>	10am, Thursday 30 April 2020

Contact for telephone discussion (if required)

Name	Position	Telephone
Paul Fulton	Principal Policy Advisor	s 9(2)(a)
s 9(2)(a)	Policy Advisor	

24 April 2020

Minister of Revenue

Cabinet paper: Use of money interest rates review

Executive summary

1. This report seeks your agreement to adjust the use of money interest (UOMI) rates. UOMI rates are reviewed regularly based on formulae set down in regulations.
2. The current rate of UOMI on underpayments of tax is 8.35% and the rate of UOMI on overpayments of tax is 0.81%. We recommend that the underpayment rate be decreased to 7.00%, and that the overpayment rate be decreased to 0.00%, in line with movements in market rates. Your approval is sought to make these rate changes and for the Parliamentary Counsel Office to draft an Order in Council to set the new rates.
3. There are two options for commencement that officials seek your decision on. The new rates can only come into effect on the day immediately following the due date for a standard instalment of provisional tax. The options for date of commencement are either 8 May 2020 or 29 August 2020.
4. Officials strongly recommend that, given the current COVID-19 situation, the new rates come into force on 8 May 2020. The significant decrease in the underpayment rate from 8.35% to 7.00% will be beneficial for taxpayers that are liable for UOMI but not eligible for the UOMI remission assistance that was recently implemented as a response to COVID-19.
5. If these rate changes occur on 8 May 2020, there will be a positive net fiscal impact of \$83 million. This comprises a decrease in revenue of \$79 million resulting from the changes in interest charges and payments due to the rate changes, and a decrease in impairment expenditure of \$162 million due to less UOMI debt being written off with a lower underpayment rate.
6. For the commencement date to be 8 May 2020, a Cabinet paper will need to be taken directly to Cabinet on Monday 4 May 2020. A draft of this paper is attached in case you want to progress the UOMI rate changes quickly. It recommends that Cabinet approve the Order in Council and authorise its submission to the Executive Council. The paper recommends a waiver of the 28-day rule, which officials consider to be appropriate for progressing the changes quickly with regard to COVID-19.
7. For the paper to be considered by Cabinet at its meeting on Monday 4 May 2020, it needs to be lodged by 10am, Thursday 30 April 2020.
8. If you do not wish to take a paper to Cabinet on 4 May for commencement of the UOMI rate changes on 8 May, then we will provide you with a re-drafted Cabinet paper relevant to a commencement date of 29 August 2020 at a later point in time.
9. Officials have contacted the Parliamentary Counsel Office to advise that draft regulations will need to be prepared in case you wish to proceed with taking a paper to Cabinet on 4 May to change the rates of UOMI.
10. The Treasury has been consulted and agrees with the recommendations in this report, including that a paper changing the rates of UOMI should be taken to Cabinet on 4 May 2020.
11. Officials will liaise with your office regarding a press statement if desired.

12. The Cabinet paper, associated minutes, and key advice papers should be proactively released with appropriate redactions within 30 working days of Cabinet making final decisions.
13. A copy of this report should be referred to the Minister of Finance for his information.

Recommended action

We recommend that you:

14. **agree** that the rate of UOMI on underpayments of tax be decreased to 7.00% (from 8.35%);
Agreed/Not agreed
15. **agree** that the rate of UOMI on overpayments of tax be decreased to 0.00% (from 0.81%);
Agreed/Not agreed
16. **agree** to adopt one of the following commencement dates for changes to the UOMI rates:
 - 16.1 8 May 2020 (Inland Revenue/Treasury’s preferred commencement date);
Agreed/Not agreed
 - OR
 - 16.2 29 August 2020.
Agreed/Not agreed
17. **note** that agreeing to a commencement date of 8 May 2020 will require you to take a paper to Cabinet on 4 May 2020 that recommends changing the rates of UOMI;
Noted
18. **note** that agreeing to a commencement date of 8 May 2020 will require you to seek a waiver of the 28-day rule in the paper to be taken to Cabinet on 4 May 2020;
Noted
19. **note** that agreeing to recommendations 14, 15, and 16.1 (for an effective date of 8 May 2020) is expected to have the following impact on tax revenue and impairment expenditure, with a positive net revenue impact of \$83 million over the forecast period, comprising a decrease in revenue of \$79 million (first table) and a decrease in impairment expenditure of \$162 million (second table):

Vote Revenue of 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

Vote Revenue Minister of Revenue	\$ millions increase (decrease)				2023/24 & outyears
	2019/20	2020/21	2021/22	2022/23	
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)

Noted

20. **agree** that the Parliamentary Counsel Office draft an Order in Council to adjust the UOMI rates;

Agreed/Not agreed

21. if the 8 May 2020 commencement date is agreed to, **sign** and **refer** the attached Cabinet paper to the Cabinet Office by 10am, Thursday 30 April;

Signed and referred/Not signed and referred

22. **agree** to the release of the attached Cabinet paper, associated minutes, and key advice papers with appropriate redactions within 30 working days of Cabinet making final decisions;

Agreed/Not agreed

23. **refer** a copy of this report to the Minister of Finance for his information.

Referred/Not referred

Paul Fulton

Principal Policy Advisor
Policy and Strategy

Hon Stuart Nash

Minister of Revenue
/ /2020

Background

24. The use of money interest (UOMI) rates are an important component of the tax compliance rules. By changing 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. They apply to all revenue and duties. The UOMI rates are set according to the Taxation (Use of Money Interest Rates Setting Process) Regulations 1997.
25. The rate setting regulations provide that the method for setting the interest rate for underpaid tax is 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 series 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.
26. The floating first mortgage new customer housing rate series is a proxy for a debt that a taxpayer might prioritise over their tax obligations. In the absence of a UOMI charge, a taxpayer wanting to borrow money could simply underpay their tax and effectively use Inland Revenue as a bank rather than borrow from a bank at a commercial interest rate. A conservative margin of 250 basis points is added to the mortgage rate in calculating the UOMI rate on underpayments because the Commissioner does not have information about the likelihood of any individual taxpayer paying the UOMI charged to them (i.e. the taxpayer's creditworthiness).
27. The rate setting regulations provide that the method for setting the interest rate for overpaid tax is 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 and approximates the return a taxpayer might expect on a low-risk investment in the New Zealand Government. Ensuring that the Commissioner pays less interest to the taxpayer on overpaid tax than the taxpayer would receive as a return from a low-risk bond aims to prevent Inland Revenue being used as an investment.
28. The UOMI rates were last changed by Order in Council with effect from 29 August 2019. The current rate of UOMI on underpayments is 8.35% and the current rate of UOMI on overpayments is 0.81%.

Principles to be applied in resetting UOMI rates

29. In 2010, the Minister of Revenue agreed that the following principles be applied in setting new UOMI rates (PAD2010/287 refers):
 - 29.1 Adjust both UOMI rates when there has been an increase or decrease of 100 basis points in either the RBNZ floating first mortgage new customer housing rate or the RBNZ 90-day bank bill rate (since the last time the rates were set);
 - 29.2 Adjust both UOMI rates every 12 months when there has been an increase or decrease of 20 basis points in either the RBNZ floating first mortgage new customer housing rate or the RBNZ 90-day bank bill rate (since the last time the rates were set) if there has been no change in the previous 12 months, in order to avoid long-term misalignment of the rates; and
 - 29.3 Apply the adjustment from the next standard provisional tax payment date.
30. Inland Revenue officials are responsible for monitoring the RBNZ floating first mortgage new customer housing rate series and the RBNZ 90-day bank bill rate series throughout the year.

Annual review of UOMI rates

31. The RBNZ's survey results for the relevant market interest rates in April 2019 (the month that the rates are currently based on) and March 2020 are as follows:

Month ended	Floating first mortgage new customer housing rate (%)	90-day bank bill rate (%)
April 2019	5.85	1.81
March 2020	4.50	0.71

32. Both sets of results for March 2020 were publicly available by 7 April 2020. They indicate that, since the rates were last set, the floating first mortgage new customer housing rate has decreased by 135 basis points and the 90-day bank bill rate has decreased by 110 basis points. As per the administrative principles set out in paragraph 29.1, adjustments to the rates of UOMI are required since either of the series has moved by at least 100 basis points (both series in this case).
33. Officials recommend that the underpayment rate be decreased to 7.00%, which is the March 2020 floating first mortgage new customer housing rate of 4.50% plus 250 basis points.
34. Officials recommend that the overpayment rate be decreased to 0.00%. The March 2020 90-day bank bill rate of 0.71% less 100 basis points is -0.29%. However, the Taxation (Use of Money Interest Rates Setting Process) Amendment Regulations 2020 came into force on 9 April 2020 in response to the current low interest rate environment. The amendments prevent the rate of UOMI on overpayments from going negative, effectively setting a zero-rate floor. Hence, officials recommend that the overpayment rate be decreased to 0.00% rather than -0.29%.

Relationship with COVID-19

35. Inland Revenue has already implemented UOMI-based relief for taxpayers in response to COVID-19 through allowing remission of UOMI for taxpayers that are significantly adversely affected by COVID-19.
36. Some taxpayers may not be able to access this remission and will still be liable for UOMI. The decrease in the underpayment rate from 8.35% to 7.00% constitutes some form of tax relief for taxpayers not eligible for full UOMI remission.
37. Changes to the rates of UOMI are not normally legislated in a short period of time and so a commencement date of 8 May 2020 would not normally be feasible. These changes would normally have come into force on 29 August 2020. However, we recommend you accelerate this process so that the UOMI rate changes can come into force on 8 May 2020 to provide faster relief for taxpayers that are still liable for UOMI on underpayments of tax during COVID-19.
38. This UOMI review is therefore different from normal in that officials request a decision from you on your preferred commencement date. Officials' preference is to accelerate the process so that the changes come into force on 8 May 2020. This would require you to take the attached paper to Cabinet on 4 May 2020. More details on next steps are provided at the end of this report.

Approval for drafting

39. The UOMI rates are set at regular intervals by regulations and it has become a routine matter to amend them. Paragraph 7.91(d) of the Cabinet Office Manual provides that, where the making of regulations will not involve any further policy considerations, the Minister may authorise drafting without reference to Cabinet.
40. Your approval is sufficient for the Parliamentary Counsel Office to draft the Order in Council.

Financial implications

41. UOMI applies to both underpayments and overpayments of tax. Although more is charged by the Commissioner on underpayments than is paid to the taxpayer on overpayments, the charges to underpayments are impaired by 80% in the Crown accounts to reflect that most UOMI charged is never paid and therefore must be written off. This means that a decrease in the underpayment rate also produces a decrease in impairment expenditure.
42. If the commencement date for changes to the UOMI rates is 8 May 2020, then there is a positive net fiscal impact over the forecast period of \$83 million. 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 debt with a lower underpayment rate so less UOMI debt is written off).
43. 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)				2023/24 & outyears
	2019/20	2020/21	2021/22	2022/23	
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

44. 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)				2023/24 & outyears
	2019/20	2020/21	2021/22	2022/23	
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)

45. 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.
46. These revenue implications are a forecasting change only as they result from an existing policy. There is no impact on the scorecard from the proposed adjustments to the UOMI rates.
47. If the commencement date for changes to the UOMI rates is 29 August 2020, then it is likely that the new rates at that time will be different from the new rates outlined in this report and the attached Cabinet paper. In that case, we will report to you at a future date with an updated Cabinet paper detailing the new rates and their corresponding fiscal impacts.

Consultation

48. The Treasury has been consulted in the preparation of this report and agrees with its contents, including Inland Revenue's recommendation for a commencement date of 8 May 2020.

Next steps

49. If you choose for the new UOMI rates to come into force on 8 May 2020, it is proposed that the Order in Council be submitted to the Cabinet Office by 10am, Thursday 30 April 2020 for Cabinet's meeting and the Executive Council on Monday 4 May 2020. Officials will prepare speaking notes for taking the attached paper directly to Cabinet if you agree to this option.
50. If you choose for the new UOMI rates to come into force on 29 August 2020, the rates outlined in this report will still need to be changed, but it is likely that the new rates will be different from those outlined here once allowing for more up-to-date data. Officials will provide you with an updated Cabinet paper closer to the August commencement date. This option will likely not require a paper to be taken directly to Cabinet since there will be no time pressure. Instead, a paper will likely be taken to the Cabinet Legislation Committee with subsequent approval at Cabinet (the normal process for changes to UOMI rates).