

In Confidence

Office of the Minister of Revenue

Chair, Cabinet Legislation Committee

COVID-19: EXTENSION OF TAX MEASURES

Proposal

1. This paper seeks the Cabinet Legislation Committee's agreement to submit two Orders in Council to the Executive Council.
2. The Orders in Council relate to extensions of tax measures developed in response to COVID-19. These include:
 - 2.1 Extending the ability for Inland Revenue to remit use of money interest for taxpayers that are significantly adversely affected by COVID-19; and
 - 2.2 Extending the current time limit on Inland Revenue's ability to share information with other government agencies for COVID-19 related activities.

Relation to Government Priorities

3. Extending these tax measures is a continuation of the Government's response to the impacts of COVID-19. As stated in the Labour 2020 Election Manifesto, a strong COVID-19 recovery plan is the Government's top priority for all New Zealanders.
4. The Tax Policy Work Programme also features the COVID-19 response as one of its policy areas of focus. This includes ensuring Inland Revenue can work with other agencies to activate and adjust COVID-19 response measures as required.

Executive Summary

5. Inland Revenue has been able to better respond to COVID-19 by using tax measures introduced by the Government in March 2020. Two of these include remitting use of money interest for taxpayers struggling to pay their tax because of COVID-19, and allowing the disclosure of information about a person or entity to a government agency regarding COVID-19 related activities. However, both of these measures are due to expire in March 2022.
6. To ensure Inland Revenue can continue to effectively respond to COVID-19, especially given the impact of Omicron, I propose that these tax measures be extended. The ability for Inland Revenue to remit interest should be extended until 8 April 2024, while the information sharing powers should be extended to 31 March 2022.

7. To make these extensions, I recommend the making of two Orders in Council. These are the Taxation (Extension of COVID-19 Interest Remission) Order 2022 and the Tax Administration (Extension of Power to Disclose Information Relating to COVID-19 Response) Order 2022. I seek the agreement of the Cabinet Legislation Committee to submit these Orders in Council to the Executive Council to give effect to these extensions.

Background

8. On 16 March 2020, Cabinet agreed to two new tax measures in response to COVID-19 (CAB-20-MIN-0103 refers). These were introduced in the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020 that came into force on 25 March 2020.
9. The first concerned Inland Revenue's ability to remit use of money interest (UOMI) for taxpayers that are significantly adversely affected by COVID-19. Inland Revenue's existing interest remission powers would not cover cases where businesses were struggling financially to pay their tax in full on time and were consequently charged with UOMI. Specific provisions were introduced to ensure that Inland Revenue could provide UOMI relief for affected taxpayers.
10. The second concerned Inland Revenue's ability to share information about a person or entity with a government agency for activities in connection with COVID-19. Before the introduction of the specific provisions, Inland Revenue did not have the discretionary power to share information with a government agency about a person or entity which would allow the agency to provide or fulfil any duty or obligation in connection with COVID-19 related activities.
11. Both of these measures were originally due to run for two years, but they can be extended by an Order in Council made on the recommendation of the Minister of Revenue.

Extension of tax measures

Use of money interest remission

12. Inland Revenue's framework for tax responses to COVID-19 is that unaffected taxpayers should continue to pay their tax and affected taxpayers should be supported to pay their tax when they are able to.
13. Allowing UOMI remission for taxpayers that are significantly adversely affected by COVID-19 is consistent with these principles. Ensuring that affected taxpayers are not charged with UOMI (when they otherwise would have paid their tax in full and on time) has been a proportionate targeted response to COVID-19 to date, and it should continue to be available in response to the impacts of Omicron. However, the ability to remit UOMI for COVID-19 reasons expires on 24 March 2022.
14. The impact of Omicron will result in reduced trading for a wide range of businesses going forward. This will be for several reasons, including changes in the way some businesses operate under the COVID-19 Protection Framework, as well as an expected increase in employees taking sick leave due to the spread of Omicron.

15. Therefore, I propose that the Cabinet Legislation Committee agrees to submit the Taxation (Extension of COVID-19 Interest Remission) Order 2022 to the Executive Council, which would extend the ability of Inland Revenue to remit UOMI until 8 April 2024. No other changes are required to this measure.

COVID-19 information sharing power

16. The discretionary power allowing Inland Revenue to share information about a person or entity with government agencies in connection with COVID-19 related activities ensures these agencies can provide or fulfil certain duties and obligations.
17. There is currently an amendment in the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Bill that proposes the removal of the time limit of this provision from 31 March 2022. However, the current information sharing power is due to expire on 17 March 2022. It is important that an extension is granted to ensure the information sharing power remains in place until the time limit is removed.
18. Therefore, I propose that the Cabinet Legislation Committee agrees to submit the Tax Administration (Extension of Power to Disclose Information Relating to COVID-19 Response) Order 2022 to the Executive Council, which would extend the ability of Inland Revenue to share information with government agencies in connection with COVID-19 related activities until 31 March 2022. No other changes are required to this measure.

Timing and 28-day rule

19. I propose that the Order in Council giving effect to the extension of UOMI relief be in force from 25 March 2022. I also propose that the Order in Council giving effect to the extension of the COVID-19 information sharing power be in force from 17 March 2022. These commencement dates ensure that there are no periods for which UOMI relief and the power to share information are not available.
20. For both of these Orders in Council to be in force from the proposed dates, they each need to come into force within 28 days of being made. Waivers of the 28-day rule are sought on the basis that bringing the Orders in Council into force within 28 days is necessary to ensure the provisions do not expire.
21. The consequences of not waiving the 28-day rule for the Order in Council extending UOMI relief would be that UOMI cannot be remitted for a period of time. This would also adversely affect taxpayers in instalment arrangements as UOMI would be charged and backdated to the date that tax became due. This creates both compliance costs for taxpayers as well as administrative costs for Inland Revenue.
22. The consequences of not waiving the 28-day rule for the Order in Council extending the information sharing power would be that information about a person or entity in connection with COVID-19 related activities would not be able to be shared with government agencies for the two-week period between the current end date and the proposed implementation date of the open-ended period.

Compliance

23. The Orders in Council comply with:

- 23.1 the principles of the Treaty of Waitangi;
 - 23.2 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993;
 - 23.3 the principles and guidelines set out in the Privacy Act 2020;
 - 23.4 relevant international standards and obligations;
 - 23.5 the Legislation Guidelines (2018 edition), which are maintained by the Legislation Design and Advisory Committee.
24. The Tax Administration Act 1994 provides that these tax measures may be extended upon the recommendation of the Minister of Revenue if the Orders in Council are made within 24 months of the date that the respective clauses came into force.
25. I consider that both provisions should be extended as they are necessary to enable Inland Revenue to respond quickly to the impacts of Omicron. I consider the statutory requisites have been met.

Financial Implications

Use of money interest remission

26. The proposal to extend the power to remit UOMI for taxpayers affected by COVID-19 has a net fiscal cost of \$1.24 million over the forecast period. This cost comprises:
- 26.1 A total gross interest charge of \$5.82 million shown in the first table below, and
 - 26.2 Total impairment of \$4.58 million shown in the second table below:

	\$m – increase/(decrease)				
Vote Revenue Minister of Revenue	2021/22	2022/23	2023/24	2024/25	2025/26 & Outyears
Tax Revenue	(0.730)	(2.910)	(2.180)	-	-
Operating Balance and Net Core Crown Debt Impact	0.730	2.910	2.180	-	-

	\$m – increase/(decrease)				
Vote Revenue Minister of Revenue	2021/22	2022/23	2023/24	2024/25	2025/26 & Outyears
Impairment of Debt and Debt Write-Offs	(0.570)	(2.290)	(1.720)	-	-
Operating Balance Only Impact	(0.570)	(2.290)	(1.720)	-	-

27. The fiscal impacts assume that any new instalment arrangements set up from now are scheduled to finish by the new expiry date of 8 April 2024 so that they get the benefit of UOMI remission. It also assumes reduced demand for UOMI relief due to a lower likelihood of measures like lockdowns further impeding trading. The economic effects of Omicron are also highly uncertain, which may affect the cost of this extension.
28. Given that this measure is being extended in response to the Omicron outbreak, I propose that this cost be charged to the COVID-19 Response and Recovery Fund.

COVID-19 information sharing power

29. There are no fiscal costs related to the extension of the COVID-19 information sharing power.

Legislative Implications

30. The legislative implications of this paper are that two Orders in Councils are to be made. This paper seeks the agreement of the Cabinet Legislation Committee to submit these Orders in Council to the Executive Council.

Impact Analysis

Regulatory Impact Assessment

31. The Minister of Revenue has approved the drafting of the Orders in Council without needing Cabinet approval because the proposal extends existing policy. Therefore, Cabinet's impact analysis requirements do not apply.

Climate Implications of Policy Assessment

32. A Climate Implications of Policy Assessment is not required as the proposal is not expected to have significant emission impacts.

Consultation

33. Inland Revenue has been consulted in the preparation of this paper and agrees with its recommendations. The Treasury was informed of this paper.

Regulations Review Committee

34. There are no anticipated grounds for the Regulations Review Committee to draw the attached Orders in Council to the attention of the House.

Certification by Parliamentary Counsel

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

Communications

36. Inland Revenue will include details of the Orders in Council in a *Tax Information Bulletin* after they come into force.

Proactive Release

37. 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.

Recommendations

The Minister of Revenue recommends that the Committee:

Use of money interest remission

1. **note** that the Taxation (Extension of COVID-19 Interest Remission) Order 2022 would extend the ability for Inland Revenue to remit use of money interest (UOMI) for taxpayers significantly adversely affected by COVID-19 until 8 April 2024;
2. **agree** that the Taxation (Extension of COVID-19 Interest Remission) Order 2022 give effect to this extension of UOMI relief;
3. **note** that a waiver of the 28-day rule is sought:
 - 3.1 so that the Taxation (Extension of COVID-19 Interest Remission) Order 2022 can come into force on 25 March 2022;
 - 3.2 on the grounds that this will allow the Order in Council to be in force on the day immediately following the current expiry date for the power to remit UOMI, ensuring that there are no periods in time during which UOMI cannot be remitted;
4. **agree** to waive the 28-day rule so that the Taxation (Extension of COVID-19 Interest Remission) Order 2022 can come into force on 25 March 2022;
5. **note** the following changes to the operating balance and net core Crown debt as a result of extending UOMI relief:

	\$m – increase/(decrease)				
Vote Revenue Minister of Revenue	2021/22	2022/23	2023/24	2024/25	2025/26 & Outyears
Tax Revenue	(0.730)	(2.910)	(2.180)	-	-
Operating Balance and Net Core Crown Debt Impact	0.730	2.910	2.180	-	-

\$m – increase/(decrease)

Vote Revenue Minister of Revenue	2021/22	2022/23	2023/24	2024/25	2025/26 & Outyears
Impairment of Debt and Debt Write-Offs	(0.570)	(2.290)	(1.720)	-	-
Operating Balance Only Impact	(0.570)	(2.290)	(1.720)	-	-

6. **agree** to charge the net operating balance impact, as shown in the tables at recommendation 5 above, against the COVID-19 Response and Recovery Fund established as part of Budget 2020;
7. **authorise** the submission to the Executive Council of the Taxation (Extension of COVID-19 Interest Remission) Order 2022;

COVID-19 information sharing power

8. **note** that the Tax Administration (Extension of Power to Disclose Information Relating to COVID-19 Response) Order 2022 would extend the ability for Inland Revenue to share information regarding COVID-19 related activities with government agencies until 31 March 2022;
9. **agree** that the Tax Administration (Extension of Power to Disclose Information Relating to COVID-19 Response) Order 2022 give effect to this extension of the COVID-19 information sharing power;
10. **note** that a waiver of the 28-day rule is sought:
 - 10.1 so that the Tax Administration (Extension of Power to Disclose Information Relating to COVID-19 Response) Order 2022 can come into force on 17 March 2022;
 - 10.2 on the grounds that this will allow the Order in Council to be in force from the day of the current expiry date until the day the proposed open-ended time limit comes into force, ensuring that there are no periods in time during which information sharing in relation to COVID-19 activities cannot occur;
11. **agree** to waive the 28-day rule so that the Tax Administration (Extension of Power to Disclose Information Relating to COVID-19 Response) Order 2022 can come into force on 17 March 2022;
12. **authorise** the submission to the Executive Council of the Tax Administration (Extension of Power to Disclose Information Relating to COVID-19 Response) Order 2022.

Authorised for lodgement

Hon David Parker
Minister of Revenue