Hon David Parker, Minister of Revenue

Information Release

COVID-19: Extension of tax measures

September 2022

Availability

This information release is available on Inland Revenue's tax policy website at https://taxpolicy.ird.govt.nz/publications/2022/2022-ir-cab-leg-22-sub-0022

Documents in this information release

#	Reference	Type	Title	Date
1	IR2021-249	Report	Extending use of money interest relief during COVID-19	8 June 2021
2	IR2021-428	Report	Amendments to provisional tax and use of money interest remission	9 November 2021
3	IR2022-026	Report	General extension of use of money interest relief during COVID-19	26 January 2022
4	IR2022-039	Report	Extending the COVID-19 information sharing power	2 February 2022
5	IR2022-050	Report	Orders in Council: COVID-19: Extension of tax measures	10 February 2022
6	LEG-22-SUB-0022	Cabinet paper	COVID-19: Extension of tax measures	10 March 2022
7	LEG-22-MIN-0022	Minute	COVID-19: Extension of tax measures	10 March 2022

Additional information

The Cabinet paper was considered by the Cabinet Legislation Committee on 10 March 2022 and confirmed by Cabinet on 14 March 2022.

Two attachments to the Cabinet paper are not included in this information release as they are publicly available:

- Taxation (Extension of COVID-19 Interest Remission) Order 2022[1]
- Tax Administration (Extension of Power to Disclose Information Relating to COVID-19 Response) Order 2022[2]

1 https://www.legislation.govt.nz/regulation/public/2022/0070/latest/whole.html
2 https://www.legislation.govt.nz/regulation/public/2022/0071/11.0/whole.html

Information withheld

Some parts of this information release would not be appropriate to release and, if requested, would be withheld under the Official Information Act 1982 (the Act). Where this is the case, the relevant sections of the Act that would apply are identified. Where information is withheld, no public interest was identified that would outweigh the reasons for withholding it.

Sections of the Act under which information was withheld:

9(2)(a)	to protect the privacy of natural persons, including deceased people

Inland Revenue
Te Tari Taake

POLICY AND REGULATORY STEWARDSHIP

Tax policy report: **Extending use of money interest relief during COVID-19**

Date:	8 June 2021	**Priority:**	Medium
Security level:	In Confidence	**Report number:**	IR2021/249

Action sought

	Action sought	Deadline
Minister of Finance	**Agree** to recommendations **Note** the fiscal impacts	25 June 2021
Minister of Revenue	**Agree** to recommendations **Note** the fiscal impacts	25 June 2021

Contact for telephone discussion (if required)

Name	Position	Telephone
Bary Hollow	Policy Lead (Acting)	s 9(2)(a)
David Cuellar	Policy Advisor	s 9(2)(a)

8 June 2021

Minister of Finance
Minister of Revenue

Extending use of money interest relief during COVID-19

Executive summary

Purpose

1. This report seeks your agreement to make an Order in Council to extend a COVID-19 scheme that allows Inland Revenue to remit use of money interest (UOMI).

2. If you agree to an extension of the scheme, then officials also seek your agreement to a remedial legislative amendment that will enable the scheme to be extended only for taxpayers in existing instalment arrangements who are currently receiving UOMI suppression.

Background

3. On 25 March 2020, the Government implemented a scheme that allows for UOMI to be remitted for taxpayers that are facing difficulties in paying their tax in full and on time due to COVID-19. This meant that taxpayers could apply to have Inland Revenue write off the interest on their late tax payments once that core tax was paid.

4. As part of this relief measure, Inland Revenue implemented an option to allow UOMI to be suppressed for taxpayers in instalment arrangements. Suppression of interest means that interest is being charged but at a special rate of zero percent (as opposed to being charged at the UOMI underpayment rate, which is currently seven percent). Once a taxpayer's arrangement is complete, their amount of suppressed interest is then remitted. The suppression option was implemented to simplify the administrative impact of the scheme and provide a better customer experience.

5. If a taxpayer does not comply with the terms of their instalment arrangement, UOMI is charged back to the date that the original tax was overdue at.

6. The scheme is due to expire two years after the scheme began, so the last day for remission is 24 March 2022. However, an Order in Council can be made to extend the scheme if desired.

Problem definition

7. When the scheme was developed, officials did not contemplate that UOMI suppression would be made available. This creates a distinction between taxpayers who have paid all their tax and have had their UOMI **remitted** (written off) versus taxpayers who have not yet paid all their tax and are having their UOMI **suppressed** (charged at zero percent).

8. Officials have concluded that the legislation only permits an extension by Order in Council of the scheme as a whole. It does not allow an extension only for those taxpayers currently in instalment arrangements that are having UOMI suppressed.

9. Making an Order in Council to give effect to an extension requires the Minister of Revenue to be satisfied that taxpayers' ability to pay their tax on time is likely to continue to be significantly adversely affected by COVID-19 beyond the current expiry date of 24 March 2022. As time passes, the links between COVID-19 and any associated financial hardships become weaker, barring any further pandemic events or restrictions.

Options

10. The status quo is to **not extend the scheme for anyone** (**Option 1**). If you wish for the scheme to end at its current expiry date of 24 March 2022, then taxpayers in existing instalment arrangements who are having UOMI suppressed will start being charged interest at 25 March 2022 on the balance going forward as well as having their suppressed interest recalculated back to the point at which the tax became overdue. This will be unfair on taxpayers who have acted in good faith to manage their payments of outstanding amounts within the incentive of UOMI remission. Officials do not recommend this option.

11. Instead, you may wish to **extend the scheme for all taxpayers** (**Option 2A**). Under this option, no legislative amendment will be required, and an Order in Council can be made to give effect to extending the scheme generally. Officials consider that this sort of general extension is not currently warranted given the positive economic outlook.

12. However, if you wish to **extend the scheme only for taxpayers in existing instalment arrangements** who are having UOMI suppressed (**Option 2B**), a remedial legislative amendment will be required, and an Order in Council can then be made accordingly.

Recommendation

13. Officials recommend **Option 2B**, which is to extend the scheme by making an Order in Council, but only for taxpayers that will be in existing instalment arrangements with interest supressed when the scheme expires on 24 March 2022. This will ensure that these people are not hit by an interest spike at expiry. We recommend that the scheme be extended until 31 March 2024.

14. The 2021 baseline forecasts should be adjusted to account for revenue gained when interest is backdated under the status quo. This will have a positive impact of $3.7 million. The proposed extension will then remit UOMI for taxpayers that would otherwise have not received remission, with a cost of $2.9 million. The net impact of the proposal relative to 2021 Budget baseline forecasts is therefore $0.7 million.

Consultation

15. The Treasury was consulted on this report.

Next steps

16. If you agree to extending the scheme, officials will issue drafting instructions to the Parliamentary Counsel Office so that the Order in Council can be drafted.

17. If you also agree to a legislative amendment that specifies this extension can be made only for people in existing instalment arrangements, then officials will progress this change within the upcoming omnibus tax Bill scheduled for introduction in August 2021.

Recommended action

We recommend that you:

18. **note** that for an extension of the scheme allowing Inland Revenue to remit use of money interest (UOMI) during COVID-19, the Minister of Revenue must be satisfied that the ability of taxpayers to pay tax on time is likely to continue to be significantly adversely affected by COVID-19 beyond the current expiry date of 24 March 2022;

Noted Noted

19. **agree** to **one of the following options** relating to extending Inland Revenue's ability to remit UOMI for underpayments of tax related to COVID-19:

19.1 **Option 1**: Do not extend the scheme; or

Agreed/Not agreed Agreed/Not agreed

19.2 **Option 2A**: Extend the scheme for all taxpayers until 31 March 2024; or

Agreed/Not agreed Agreed/Not agreed

19.3 **Option 2B**: Extend the scheme only for taxpayers in existing instalment arrangements until 31 March 2024 (**officials' recommendation**);

Agreed/Not agreed Agreed/Not agreed

20. **note** that the Crown's revenue forecasts have been updated to reflect the additional $3.7 million in revenue that can be expected were COVID-19 UOMI relief to end after two years, as shown below;

	$m – increase/(decrease)				
Vote Revenue **Minister of Revenue**	**2020/21**	**2021/22**	**2022/23**	**2023/24**	**2024/25 & outyears**
Tax Revenue: Interest	0	18.4	0	0	0
Expense: Impairment of debt and bad debt write-offs	0	14.7	0	0	0
Total Operating	**0**	**(3.7)**	**0**	**0**	**0**

Noted Noted

21. **note** that agreeing to recommendation 19.1 (**Option 1**) will have no fiscal impact, for a net effect (when considered in conjunction with the above forecast change) of $3.7 million;

Noted Noted

22. **note** that agreeing to recommendation 19.2 (**Option 2A**) could have a cost of up to $22 million, subject to a number of conservative assumptions about behaviour and uptake of the scheme, and that this upper bound is highly uncertain;

Noted Noted

23. **note** that agreeing to recommendation 19.3 (**Option 2B**) will result in the following fiscal impact, with a corresponding impact on the operating balance, for a net effect (when considered in conjunction with the above forecast change) of $0.7 million;

	$m – increase/(decrease)				
Vote Revenue **Minister of Revenue**	**2020/21**	**2021/22**	**2022/23**	**2023/24**	**2024/25 & outyears**
Tax Revenue: Interest	0	(14.7)	0	0	0
Expense: Impairment of debt and bad debt write-offs	0	(11.8)	0	0	0
Total Operating	**0**	**2.9**	**0**	**0**	**0**

Noted Noted

24. if recommendation 19.3 is agreed to, **agree** to include an amendment that gives effect to this extension in the upcoming omnibus tax Bill scheduled for introduction in August 2021;

Agreed/Not agreed Agreed/Not agreed

25. if recommendation 19.2 or 19.3 is agreed to, **agree** for Inland Revenue to issue drafting instructions to the Parliamentary Counsel Office to draft an Order in Council that gives effect to this extension.

Agreed/Not agreed Agreed/Not agreed

Bary Hollow
Policy Lead (Acting)
Policy and Regulatory Stewardship

Hon Grant Robertson
Minister of Finance
/ /2021

Hon David Parker
Minister of Revenue
/ /2021

Background

Introduction

26. The purpose of this report is to seek your agreement to extend the scheme that allows Inland Revenue to remit use of money interest (UOMI) for taxpayers that have been significantly adversely affected by COVID-19.

27. If you agree to an extension of the scheme, then officials also seek your agreement to a remedial legislative amendment that will enable the scheme to be extended only for taxpayers in existing instalment arrangements who are currently receiving UOMI suppression.

Context

28. The purpose of UOMI is to compensate the government for the loss of use of money from taxpayers underpaying their tax. It applies to all tax types administered by Inland Revenue as well as Working for Families debt. The UOMI rates track against market indices published by the Reserve Bank of New Zealand. The UOMI rate charged on underpayments of tax is currently seven percent.

29. As part of the Government's response to the economic impacts of COVID-19, a legislative amendment was made to allow Inland Revenue to write off UOMI for taxpayers that were significantly adversely affected by COVID-19 in their ability to pay tax. This is applicable to interest that has accrued after 14 February 2020 and was made available to taxpayers from 25 March 2020. To be eligible for UOMI remission, a taxpayer must have asked for the remission as soon as practicable and made the payment of tax as soon as practicable.

30. This became a useful measure to allow taxpayers affected by COVID-19 to manage their tax debt. Comments from tax practitioners have noted that the imposition of UOMI on late/unpaid tax during COVID-19 would have compounded hardship for taxpayers, and so UOMI remission was a welcome development.

31. It was initially intended that this remission was made available to those taxpayers that had paid their tax owing but had accrued UOMI due to late payment. However, to assist other taxpayers who were struggling to pay their tax in full, another option was implemented whereby taxpayers who had not yet paid all their tax could enter into an instalment arrangement with Inland Revenue and have their interest suppressed at zero percent. Interest is still calculated in the background during the arrangement, but it is remitted at the end of the arrangement if the taxpayer was compliant with its terms.

32. The practical difference between UOMI remission and UOMI suppression is that suppressed interest can be reversed if necessary. For example, a taxpayer may currently be in an arrangement where their interest is suppressed, but if they fail to meet their obligations under the arrangement, that suppressed interest can be recalculated at the UOMI underpayment rate such that they no longer get any UOMI relief. In contrast, remitting interest under this scheme is only available once the tax owing has been fully paid so the compliance issue does not arise for remission as it does for suppression.

33. As of 8 June 2021, the UOMI figures under the scheme are as follows:

    33.1 $14.4 million of interest has been remitted for 86,409 taxpayers (who have paid all their tax), and

    33.2 $58.7 million of interest has been suppressed for 21,727 taxpayers (who are in instalment arrangements to pay down the remainder of their tax owing).

34. Suppression has the benefit of being administratively simple and customer friendly, as taxpayers do not see the interest accruing while they are meeting their obligations.

Problem definition

35. The ability for Inland Revenue to remit UOMI expires on 24 March 2022. Extending this scheme would be done for the purposes of continuing to provide UOMI relief to taxpayers who are significantly adversely affected in their ability to pay their tax because of COVID-19. It is a requirement in the legislation that an extension can only be made if the Minister of Revenue believes that taxpayers' obligations will continue to be affected by COVID-19. As time passes, the links between the pandemic and any associated financial hardships become weaker, barring any further pandemic events or restrictions.

36. The other issue to consider is whether recipients of UOMI remission or UOMI suppression are equally deserving of an extension, or should one group be prioritised over the other. When the scheme was developed, officials did not contemplate that UOMI suppression would be made available. This creates a distinction between taxpayers who have paid all their tax and have had their UOMI **remitted** (written off) versus taxpayers who have not yet paid all their tax and are having their UOMI **suppressed** (charged at zero percent).

37. Officials have concluded that the legislation only permits an extension by Order in Council of the scheme as a whole. It does not allow an extension only for those taxpayers currently in instalment arrangements that are having UOMI suppressed. If you would like to extend the scheme solely to allow those in existing instalment arrangements to finish their arrangements without having interest charged, then a remedial legislative amendment would be required. If an extension is not granted for those taxpayers, UOMI will be charged back to the original due date for payment once the remission power expires.

Options

38. Officials have considered the options in two steps:

    38.1 Whether the scheme should be extended at all (**Option 1** versus **Option 2**), and

    38.2 If the scheme is extended, whether it should be extended for everyone (**Option 2A** versus **Option 2B**).

39. **Option 1** is the status quo, which is to **not extend the scheme**. This means that Inland Revenue's ability to remit UOMI will expire on 24 March 2022.

40. **Option 2** is to extend the scheme and has two versions. Note that taking either of these options to extend the scheme requires that the Minister of Revenue is satisfied that the ability of taxpayers to pay tax on time is likely to continue to be significantly adversely affected by COVID-19 beyond the current expiry date.

41. **Option 2A** is to **extend the scheme for all taxpayers**.

42. **Option 2B** is to **extend the scheme only for taxpayers in existing instalment arrangements** who are having UOMI suppressed.

Option 1: Do not extend the scheme

43. This option is the status quo. It does not require a legislative amendment and will result in the scheme expiring on 24 March 2022.

44. Taxpayers who have had UOMI remitted before expiry have already received the benefit of the scheme.

45. Taxpayers who are in instalment arrangements with interest suppressed at the time of expiry will see UOMI charged on the overdue tax. This balance will increase from zero to an amount recalculated using the prevailing UOMI underpayment rate.

46. Note that this will be backdated to the point at which the tax payment was initially due, rather than being prospective from expiry of the scheme. This means that, although the taxpayer was not obliged to pay interest for the duration of the arrangement until the scheme's expiry, they will now be liable for the UOMI that would have been charged if not for the UOMI relief. This means that they will have received no benefit from the scheme apart from deferring an amount of UOMI. This was not an intended outcome of the scheme, as officials considered that those eligible for UOMI relief during the period of the scheme should not have that relief reversed once the scheme ends.

47. We do not recommend this option as we consider the backdating of the interest charge to be excessively punitive. This is because taxpayers have, in good faith, entered into instalment arrangements with the expectation that UOMI would be remitted if they comply with the terms of that arrangement.

Option 2A: Extend the scheme for all taxpayers

48. The first option for extending the scheme is a general extension for all taxpayers. This requires an Order in Council to be passed but does not require a legislative amendment. Under this option, we recommend extending the scheme for a duration of two years until 31 March 2024.

49. This is the most generous option to taxpayers of those proposed in this report. It will allow taxpayers to have interest remitted on tax accrued on and after 25 March 2022. It will also allow people in existing instalment arrangements to have their interest suppressed beyond the expiry date, and will allow anyone to set up a new instalment arrangement with suppressed interest after that date.

50. Officials consider that the link between COVID-19 and taxpayers' ability to pay their tax in full and on time is much weaker now than it was during 2020. We expect that this link will have weakened further by March 2022. We accept that COVID-19 still creates and will continue to create difficulties for some industries in particular, but we do not recommend targeting this measure at specific sectors.

Option 2B: Extend the scheme only for taxpayers in existing instalment arrangements

51. The second option for extending the scheme is a targeted extension for the group of taxpayers who are already in instalment arrangements with interest suppressed. Because the existing legislation only allows for a general extension of the scheme, a legislative amendment would be required. This would allow for an Order in Council to be made that specifies a group of people for which the scheme is extended for.

52. As per **Option 2A**, we recommend extending the scheme for a duration of two years until 31 March 2024. This is long enough to ensure that the majority of taxpayers in instalment arrangements running past the current expiry date are able to complete their arrangement and therefore have their interest fully remitted. We do not consider it appropriate to extend the scheme until all instalment arrangements are finished, which is not until at least 2030.

53. **Option 2B** allows taxpayers in existing instalment arrangements with suppressed interest to complete their tax payments and ultimately receive the benefit of

remission. However, it does not allow taxpayers to set up new instalment arrangements or make new applications for remission after the current expiry date. This option is therefore more generous than **Option 1** but less generous than **Option 2A**.

54. This option is less concerned with the question of whether taxpayers are still being significantly adversely affected by COVID-19 compared to **Option 2A**. The intention of this option is to ensure that those who are receiving a benefit under the scheme are able to lock that benefit in, rather than to continue to provide COVID-19-related relief for everyone. This is consistent with the original policy intent, which means this would be a remedial amendment. This option also eliminates the main disadvantage of **Option 1** concerning the backdating of UOMI.

Conclusion

55. Officials recommend proceeding with **Option 2B** to extend UOMI relief only for taxpayers in existing instalment arrangements with interest being suppressed. We believe this strikes a balance between ensuring that those affected by COVID-19 are able to benefit from the scheme (and are not hit with an interest spike at the scheme's expiry) while also recognising that UOMI relief must be tied to taxpayers being significantly adversely affected by COVID-19.

56. As of 3 June 2021, 12,794 instalment arrangements with $46.6 million of suppressed UOMI are not scheduled to be completed before the current expiry of the scheme. However, 11,733 of those arrangements (92 percent) would be completed within a two-year extension, with current suppressed interest of $44.4 million. The actual number completed will depend on how compliant taxpayers are with the terms of their arrangements.

57. Note that these figures are snapshots and do not capture any instalment arrangements with UOMI suppression set up between 3 June 2021 and 24 March 2022.

Financial implications

58. When the UOMI remission scheme was originally developed, no fiscal impact was estimated. This was because the baselines at the time did not contemplate COVID-19 and its implications for making it difficult for taxpayers to pay their tax in full and on time. Consequently, extra UOMI was predicted to become payable that had not previously been anticipated, and so writing that UOMI off simply returned revenue to what was originally expected.

59. Over a year has passed since the scheme was set up and Inland Revenue now has data on figures concerning remission and suppression under the scheme. However, the Budget 2021 baseline forecasts do not include any positive revenue impact arising from UOMI being recalculated and payable at the end of the scheme.

60. A fiscal impact can be calculated for the cost of extending the scheme for taxpayers in existing instalment arrangements, since Inland Revenue holds information about the arrangements that exist. This is made up of two changes:

    60.1 The first change to existing baselines arising from the fact that UOMI remission has been allowed but will end on 24 March 2022, resulting in some taxpayers having UOMI backdated (status quo); and

    60.2 The second change to those adjusted baselines arising from the current recommendation to extend the scheme for taxpayers in existing instalment arrangements.

61. The first change recognises that a number of taxpayers have arrangements running past the current expiry date and, without an extension, will lose the benefit of their UOMI being suppressed as the interest will be recalculated back to when the tax became due. This will result in a forecasting adjustment upward in the 2021/22 year of $3.7 million. If you do not agree to an extension, this adjustment will still be required.

	$m – increase/(decrease)				
Vote Revenue **Minister of Revenue**	**2020/21**	**2021/22**	**2022/23**	**2023/24**	**2024/25 & outyears**
Tax Revenue: Interest	0	18.4	0	0	0
Expense: Impairment of debt and bad debt write-offs	0	14.7	0	0	0
Total Operating	**0**	**(3.7)**	**0**	**0**	**0**

62. The second change then recognises that a two-year extension for taxpayers in existing instalment arrangements will allow those taxpayers with an arrangement falling between 25 March 2022 and 31 March 2024 to receive remission of UOMI at the end of their arrangements, when they otherwise would have had interest recalculated and backdated to when tax became overdue if not for the extension. This has a fiscal cost of $2.9 million.

	$m – increase/(decrease)				
Vote Revenue **Minister of Revenue**	**2020/21**	**2021/22**	**2022/23**	**2023/24**	**2024/25 & outyears**
Tax Revenue: Interest	0	(14.7)	0	0	0
Expense: Impairment of debt and bad debt write-offs	0	(11.8)	0	0	0
Total Operating	**0**	**2.9**	**0**	**0**	**0**

63. The net impact of these adjustments relative to Budget 2021 baselines is therefore $0.7 million in the 2021/22 year.

64. This costing relies on a number of assumptions, including:

64.1 UOMI suppressed a year from now will be close to double the current amounts;

64.2 If there is no extension, people with arrangements ending soon after the current expiry date are more likely to take actions to finish their arrangement early to receive the benefit of remission compared to taxpayers whose arrangements end later; and

64.3 UOMI figures are impaired at 80 percent.

65. If you wish to extend the scheme for everyone (**Option 2A**), there will be a cost to the Government that officials have been unable to quantify. This is because Inland Revenue does not hold information on the number of taxpayers who may enter into future instalment arrangements or make a new application for remission after the current expiry date.

66. Based on current uptake of the scheme and extrapolation, there could be an upper bound on the cost of this option of $22 million. This assumes that all suppressed interest is eventually remitted, and that uptake of the scheme over the extension period is the same as uptake over the original period. Both of these assumptions are conservative and highly unlikely to be true.

Administrative implications

67. Implementing the recommendation outlined in this report is straightforward and will require communication to taxpayers and tax agents, as well as education for Inland Revenue staff. There are no systems changes required and existing processes will continue. Any implementation costs that arise can be met through baseline funding.

Consultation

68. The Treasury was consulted on this report.

Next steps

69. Subject to your approval of an extension, we will issue drafting instructions to the Parliamentary Counsel Office to draft the required Order in Council.

70. If you agree to the extension only applying to taxpayers in existing instalment arrangements, then a remedial legislative change will need to be made prior to the drafting of the Order in Council. We will include this in the drafting of the upcoming omnibus taxation Bill scheduled for introduction in August 2021.

Inland Revenue
Te Tari Taake

POLICY AND REGULATORY STEWARDSHIP

Tax policy report: **Amendments to provisional tax and use of money interest remission**

Date:	9 November 2021	**Priority:**	Medium
Security level:	In Confidence	**Report number:**	IR2021/428

Action sought

	Action sought	Deadline
Minister of Revenue	**Agree** to the recommendations	23 November 2021
Minister of Finance	**Agree** to the recommendations	23 November 2021

Contact for telephone discussion (if required)

Name	Position	Telephone
Bary Hollow	Policy Lead – Tax Administration (Acting)	s 9(2)(a)
Natisha Jones	Policy Advisor	s 9(2)(a)

9 November 2021

Minister of Finance
Minister of Revenue

Amendments to provisional tax and use of money interest remission

Purpose

1. This report seeks your agreement to remedial amendments to the safe harbour concession for provisional taxpayers and to use of money interest relief for COVID-19 and emergency events.

Proposed amendments

Safe harbour concession

2. The safe harbour concession for provisional tax is available to standard method provisional taxpayers whose residual income tax (RIT) is less than $60,000, provided they meet the requirements in the Tax Administration Act 1994. To qualify as a safe-harbour taxpayer the person must have paid their provisional tax instalments in full and on time.

3. Qualifying as a safe harbour taxpayer prevents use of money interest (UOMI) being charged for underpaid provisional tax during the income year. A safe harbour taxpayer will only be charged UOMI after the terminal tax due date.[1]

4. In 2017, when incremental late payment penalties were removed from the late payment of income tax (including provisional tax), an amendment was made to the safe harbour concession to require all payments to be paid in full and on time. At the time the change was made the number of taxpayers who pay one or two days late unintentionally was underestimated. Since the change a large number of taxpayers have been caught out by this issue resulting in incurring UOMI, in addition to late payment penalties. In these circumstances the application of UOMI and late payment penalties is not considered to be proportionate to the offence committed.

5. Recently, a change was made to the 'payment in full' requirement to enable flexibility for taxpayers who underpay their provisional tax within $20. This accounted for those who underpaid their tax bill by a small amount. Removing the requirement for taxpayers to pay 'on time' is consistent with this approach, removing the arbitrariness of this requirement.

6. We consider it appropriate to allow taxpayers to retain the safe harbour concession even if they miss a payment, as late payment penalties[2] should be a sufficient penalty to incentivise taxpayers to continue to make their payments on time.

7. This initiative is taxpayer friendly because it removes disproportionate amounts charged as UOMI for minor mistakes of small provisional taxpayers. This change will support small provisional taxpayers who may not be as familiar with their tax obligations, by encouraging them to pay on time without disproportionately penalising them. Instead, late payment penalties will remain operational and be sufficient to encourage taxpayers to pay on time.

[1] The terminal tax date is generally 7 February (or 7 April if the person has a tax agent) the year following the income year.
[2] Late payment penalties are imposed at 1% of the amount due the day after the due date and 4% 7 days later.

Extending use of money interest relief during COVID-19

8. One of the tax system responses to COVID-19 was to enable Inland Revenue to remit UOMI for taxpayers that were significantly adversely affected by COVID-19 and were unable to pay their tax in full and on time. This power was originally due to expire on 24 March 2022.

9. In June 2021, joint Ministers agreed to extend the UOMI remission scheme for taxpayers in existing instalment arrangements until 31 March 2024 (IR2021/249 refers). This specific group is of concern because, under current settings, those taxpayers whose existing instalment arrangements have not finished when the scheme expires will have their interest charged back to when the original tax became due rather than from when the scheme expires. Officials considered this to be unfair for taxpayers that acted in good faith to arrange to repay their tax and receive the benefit of UOMI remission.

10. At the time those original recommendations were made, officials indicated that a general extension of the scheme for everyone was not warranted due to the positive economic outlook. However, officials now consider that the previously agreed changes should be expanded because of the extended Alert Level restrictions in effect from August 2021 and the effect of those restrictions on smaller businesses in particular.

11. In addition to the previously agreed recommendations, officials consider that UOMI relief should be extended to a wider group of taxpayers due to the uncertainty that smaller taxpayers will encounter in forecasting their income tax liability for the 2021-22 income year.

12. We consider that general UOMI remission of income tax should be allowed for smaller provisional taxpayers that qualify for UOMI remission specifically due to being unable to accurately forecast their RIT because of COVID-19.

13. Under the existing provisions for this specific group, eligibility is restricted to provisional taxpayers with RIT of less than $1 million. We propose retaining this requirement when assessing the eligibility of taxpayers of this group for general UOMI relief. We propose that provisional taxpayers qualifying from this group for general remission should be able to seek relief until 7 April 2023 (the terminal tax date for the 2021–22 income year).

14. In summary, the COVID-19 interest remission rules would be as follows in **Table 1**:

Table 1: Summary of UOMI relief available due to COVID-19

Taxpayer	**Tax type**	**Expiry for remission under the status quo**	**Expiry for remission if current recommendations agreed to**
Taxpayers in instalment arrangements entered into prior to 24 March 2022	All tax types – deferred payment due to COVID-19 issues	Instalment arrangement must be completed by 31 March 2024 (agreed in June 2021; IR2021/249 refers)	Not affected by current recommendations
Taxpayers who: • have RIT liability less than $1 million; and • COVID-19 has affected their ability to reasonably accurately forecast their RIT liability	Income tax (including provisional tax) – late payment and underpayment due to COVID-19 issues	24 March 2022 (original legislation)	7 April 2023 (including payments for the 2021–22 income year)
All other taxpayers	All tax types – late payment due to COVID-19 issues	24 March 2022 (original legislation)	Not affected by current recommendations

15. As per current legislation, this new recommendation does not limit the Minister of Revenue's ability to recommend another extension of the scheme, either generally or for a specific group of people. Officials also expect that further consideration will need to be given to the group of taxpayers with instalment arrangements for income tax entered into after 24 March 2022 but extending past the 7 April 2023 expiry date.

Broadening the use of money interest relief available during emergency events

16. The previous amendment describes the ability for UOMI to be remitted when a provisional taxpayer is significantly adversely affected in their ability to reasonably accurately forecast their RIT due to COVID-19. No equivalent provision is currently available in response to an emergency event, such as a flood or an earthquake. Technically, only interest incurred as a result of late payment due to the emergency event can be remitted.

17. Officials therefore recommend a change to the emergency events UOMI remission rules to ensure that UOMI can be remitted if it is charged as a result of a taxpayer being unable to reasonably accurately forecast their income tax due to an emergency event. This will further ensure that the same UOMI provisions available for COVID-19 reasons are also available during emergency events.

18. However, some settings should be changed compared to the relief available for COVID-19. Specifically, officials recommend that:

    18.1 Relief in this situation is not limited to certain income years like the COVID-19 provisions are, so that UOMI remission is fully available for any future emergency event; and

18.2 A taxpayer with any amount of RIT can be eligible for UOMI relief of this sort, subject to meeting the other existing criteria (in the COVID-19 provisions, only taxpayers with RIT of $1 million or less can be eligible for this relief).

Changing the eligibility test for use of money interest relief for emergency events

19. UOMI remission as a response to COVID-19 was largely modelled off UOMI remission available for emergency events. Separate provisions for COVID-19 UOMI remission were required as officials considered that the emergency events UOMI remission rules were not sufficient to be able to provide relief during COVID-19.

20. One of the main reasons for this is that UOMI remission is only available during an emergency event if the event "**physically prevents** the taxpayer from making a payment required by a tax law". This would not deal with situations where a business was financially unable to make a tax payment due to being closed during COVID-19. As a result, eligibility for COVID-19 UOMI remission depends on whether "the taxpayer's ability to make a payment required by a tax law… is **significantly adversely affected** by COVID-19". This allows UOMI remission for a range of reasons during COVID-19, including being physically prevented from paying tax as well as financial hardship.

21. Officials now consider that the same test should be used for emergency events. We therefore recommend that taxpayers should be eligible for emergency events UOMI remission if they are significantly adversely affected by an emergency event as well as meeting the other existing criteria.

Fiscal impacts

Safe harbour concession

22. The fiscal impact of removing the requirement to pay in full, from the safe harbour concession is approximately -$2.7 million per year over the forecast period. This is represented by the gross interest charge of -$13.7 million per year and the corresponding saving in no longer having to impair this UOMI amount of $11 million per year leaving a net cost of -$2.7 million per year.

23. The fiscal impact is likely to depend upon taxpayer behaviour. There is sufficient space on the Tax Policy Scorecard to absorb this cost.

24. The Tax Policy Scorecard has historically been used only to manage the revenue impact of tax policy changes. By contrast, the Scorecard has not been used to manage the fiscal impacts of changes to appropriations. However, officials recommend that the positive impact on the impairment appropriation [Impairment of Debt and Write-Offs] in this instance should be managed through the Scorecard, as it is a direct consequence of the policy change. This is consistent with the Scorecard's purpose, which is to enable tax policy changes to be managed outside the allowance framework.

Extending use of money interest relief during COVID-19

25. The fiscal impact of extending COVID-19 UOMI relief to the additional group of provisional taxpayers (with RIT of less than $1 million) has a gross interest charge of -$700,000 that is impaired by $550,000, leaving a net fiscal cost of approximately -$150,000.

26. This fiscal impact is based on remission of income tax interest charges for small taxpayers relating to the 2021–22 year and assumes that any new arrangements are set up to finish by 7 April 2023 so they get the benefit of the proposed remission.

The fiscal costing is further based on assumption of reduced demand for COVID-19 UOMI relief due to reduced likelihood over time of lockdowns impeding trading.

27. The Treasury has advised that this amendment meets the Minister of Finance's criteria for charging the cost against the COVID-19 Response and Recovery Fund.

Use of money interest relief for emergency events

28. For emergency events, the amendments relating to both broadening UOMI relief available to help provisional taxpayers and changing the eligibility test for UOMI relief have a nil fiscal impact. They will both increase the relief provided during each emergency event, which will lead to a negative but unquantifiable effect on revenue. However, any such amount is offset against the positive UOMI amounts resulting from the emergency event causing taxpayers to be unable to pay their tax, none of which is in baseline forecasts.

Legislative implications

29. Legislative provisions relating to the extension of UOMI relief during COVID-19 have already been included in the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Bill, which is currently being considered by the Finance and Expenditure Committee. The revised recommendations in this report will not affect what has already been included in the Bill.[3]

30. If you agree to the expanded COVID-19 UOMI remission recommendations, some of these will be reflected in the Order in Council extending the scheme to be made in March 2022. You have previously approved officials to issue drafting instructions to the Parliamentary Counsel Office to make this Order for the original extension (IR2021/249 refers). Some of the changes in this report, if agreed to, will be contained in the drafting instructions for the Parliamentary Counsel Office.

31. The remaining amendments in this report (the change to the safe harbour concession, part of the changes for COVID-19 UOMI relief for provisional taxpayers, and both the emergency events UOMI remission changes) can be included in the same Bill by way of inclusion in the officials' report, which will be presented to the Finance and Expenditure Committee's in early 2022.

32. As the proposals are all taxpayer friendly, we do not anticipate any issues with including these amendments in the Bill at this stage of the legislative process.

Consultation

33. The Treasury has been consulted on this report. Chartered Accountants Australia and New Zealand have been consulted on the proposed amendments and is supportive of the changes.

Next steps

34. As these are remedial amendments to legislation, your approval of the changes is sufficient for them to be progressed without requiring consideration by Cabinet.

35. Subject to your agreement to the amendments, officials will issue drafting instructions to prepare legislation giving effect to these changes. This will be considered by the Finance and Expenditure Committee prior to the Bill being reported back to the House.

[3] The current provisions in the Bill will allow any future extension of the scheme to be targeted at a specific group of people; currently, the scheme can only be extended for everyone.

Recommended action

We recommend that you:

1. **agree** to remove the requirement that taxpayers must pay "in full and on time" to retain the safe harbour concession;

   Agreed/Not agreed Agreed/Not agreed

2. **note** that the net operating balance impact of the decision in recommendation 1 is $13.5 million over the forecast period ($2.7 million per year), caused by a reduction in net tax revenue and partly offset by a reduction in impairment, as shown below in recommendations 3 and 4;

   Noted Noted

3. **note** the following change to forecast tax revenue to give effect to the decision in recommendation 1, with a corresponding impact on the operating balance and net core Crown debt;

	$m – increase/(decrease)				
Vote Revenue Minister of Revenue	**2021/22**	**2022/23**	**2023/24**	**2024/25**	**2025/26 & Outyears**
Tax Revenue	(13.700)	(13.700)	(13.700)	(13.700)	(13.700)
Operating Balance and Net Core Crown Debt Impact	**13.700**	**13.700**	**13.700**	**13.700**	**13.700**

   Noted Noted

4. **agree** to the following change to appropriations to give effect to the decision in recommendation 1, with a corresponding impact on the operating balance only;

	$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	(11.000)	(11.000)	(11.000)	(11.000)	(11.000)
Operating Balance Only Impact	**(11.000)**	**(11.000)**	**(11.000)**	**(11.000)**	**(11.000)**

   Agreed/Not agreed Agreed/Not agreed

5. **agree** that the proposed change to appropriations for 2021/22 above be included in the 2021/22 Supplementary Estimates and that, in the interim, the increase be met from Imprest Supply;

   Agreed/Not agreed Agreed/Not agreed

6. **note** that, because impairment is appropriated, it is not usually accounted for through the Tax Policy Scorecard;

Noted Noted

7. **agree,** notwithstanding the above, to charge the net cost of the policy change (including the positive impact of a reduction in impairment) described in recommendation 2 to the Tax Policy Scorecard;

Agreed/Not agreed Agreed/Not agreed

8. **agree** to expand UOMI remission to 7 April 2023 for provisional taxpayers with residual income tax (RIT) of less than $1 million whose ability to reasonably accurately forecast their RIT has been affected by COVID-19;

Agreed/Not agreed Agreed/Not agreed

9. **note** that the net operating balance impact of the decision in recommendation 8 is $0.15 million over the forecast period, caused by a reduction in net tax revenue and partly offset by a reduction in impairment, as shown below in recommendations 10 and 11;

Noted Noted

10. **note** the following change to forecast tax revenue to give effect to the decision in recommendation 8, with a corresponding impact on the operating balance and net core Crown debt;

	$m – increase/(decrease)				
Vote Revenue Minister of Revenue	**2021/22**	**2022/23**	**2023/24**	**2024/25**	**2025/26 & Outyears**
Tax Revenue	(0.170)	(0.520)	-	-	-
Operating Balance and Net Core Crown Debt Impact	**0.170**	**0.520**	**-**	**-**	**-**

Noted Noted

11. **agree** to the following change to appropriations to give effect to the decision in recommendation 8, with a corresponding impact on the operating balance only;

	$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	(0.140)	(0.410)	-	**-**	-
Operating Balance Only Impact	**(0.140)**	**(0.410)**	**-**	**-**	**-**

Agreed/Not agreed Agreed/Not agreed

12. **agree** to charge the net operating balance impact described in recommendation 9 to the COVID-19 Response and Recovery Fund, established as part of Budget 2020;

Agreed/Not agreed Agreed/Not agreed

13. **agree** to the following changes relating to UOMI remission for emergency events to better align the rules with those developed for COVID-19:

13.1 Allow remission for all provisional taxpayers who are significantly adversely affected in their ability to forecast their income due to an emergency event;

Agreed/Not agreed Agreed/Not agreed

13.2 Change the test for remission from a taxpayer being "physically prevented" from paying their tax to being "significantly adversely affected" in their ability to pay tax;

Agreed/Not agreed Agreed/Not agreed

14. **note** that the two amendments relating to emergency events UOMI remission have a nil fiscal impact, as the negative revenue effect of remitting the interest in these cases is offset by the positive revenue effect of UOMI being collected relating to unexpected emergency events that are not in existing forecasts;

Noted Noted

15. **agree** that all the new amendments agreed to are to be included in the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Bill and in the officials' report to be presented to the Finance and Expenditure Committee.

Agreed/Not agreed Agreed/Not agreed

s 9(2)(a)

Bary Hollow
Policy Lead (Acting) – Tax Administration
Policy and Regulatory Stewardship

Hon David Parker
Minister of Revenue
/ /2021

Hon Grant Robertson
Minister of Finance
/ /2021

POLICY AND REGULATORY STEWARDSHIP

Tax policy report: **General extension of use of money interest relief during COVID-19**

Date:	26 January 2022	**Priority:**	High
Security level:	In Confidence	**Report number:**	IR2022/026

Action sought

	Action sought	Deadline
Minister of Finance	**Agree** to recommendations	28 January 2022
Minister of Revenue	**Agree** to recommendations	28 January 2022

Contact for telephone discussion (if required)

Name	Position	Telephone
Bary Hollow	Principal Policy Advisor	s 9(2)(a)
David Cuellar	Senior Policy Advisor	s 9(2)(a)

26 January 2022

Minister of Finance
Minister of Revenue

General extension of use of money interest relief during COVID-19

Purpose

1. This report seeks joint Ministers' agreement to a general extension of use of money interest (UOMI) relief in response to the ongoing economic impacts of COVID-19.

2. A **general extension** for all taxpayers expands on the **targeted extensions** that joint Ministers have previously agreed to. This report also notes the additional fiscal impacts of a broader extension.

Background

3. One of the tax system responses to COVID-19 was to enable Inland Revenue to remit UOMI for taxpayers that are significantly adversely affected by COVID-19 and so are unable to pay their tax in full and on time. This power was originally due to expire on 24 March 2022.

4. In June 2021, and then again in November 2021, joint Ministers agreed to a series of targeted extensions of UOMI relief. These were for:

   4.1 Taxpayers in existing instalment arrangements as at 24 March 2022, extended to 31 March 2024 (IR2021/249 refers); and

   4.2 Provisional taxpayers with less than $1 million in residual income tax, extended to 7 April 2023 (IR2021/428 refers).

5. These targeted extensions served several purposes, such as to ensure that taxpayers that are compliant with their instalment arrangements are not subject to backdated UOMI, and to deliver targeted assistance at a specific group of taxpayers in response to the impacts on businesses resulting from the Delta outbreak.

6. However, given the ongoing concerns regarding the impacts of Omicron, officials consider that a more general extension of UOMI remission is now warranted.

General extension of UOMI remission

7. The ability for Inland Revenue to remit UOMI for taxpayers affected by COVID-19 expires on 24 March 2022, but this date can be extended by an Order in Council made on the recommendation of the Minister of Revenue. Joint ministers have previously agreed to the making of an Order in Council to give effect to the targeted extensions described above.

8. Officials now recommend that the Order in Council is made to instead extend the scheme generally for all taxpayers. The new expiry date for UOMI remission would be 7 April 2024.

9. This would allow for continuation of UOMI remission once the applying taxpayer has paid the core tax on which the UOMI has been charged. The extension would also allow for continuation of UOMI suppression, where a taxpayer enters into an instalment arrangement and does not have to pay UOMI so long as the arrangement is complied with.

10. **Table 1** summarises the taxpayers affected by a general extension of UOMI relief in comparison to the targeted extensions previously agreed to:

Table 1: Taxpayers affected by a general extension of COVID-19 UOMI relief

Taxpayer	**Tax type**	**Expiry date as previously agreed to**	**Expiry date under a general extension (current recommendation)**
Taxpayers in instalment arrangements entered into on or before 24 March 2022	All tax types; deferred payment due to COVID-19	Instalment arrangement must be completed by 31 March 2024 (IR2021/249 refers)	7 April 2024
Taxpayers who: • Have a 2022 residual income tax liability of less than $1 million; and • COVID-19 has affected their ability to forecast their residual income tax liability	Income tax; late payment and underpayment due to COVID-19	7 April 2023, including payments for the 2021–22 income year (IR2021/428 refers)	7 April 2024
All other taxpayers	All tax types; late/deferred payment due to COVID-19	24 March 2022 (no extension previously agreed to)	7 April 2024

11. Officials expect that the impacts of Omicron will result in reduced trading for a wide range of businesses. 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. 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 tax response to COVID-19 to date, and it should continue to be available in response to the impacts of Omicron.

12. A general extension of COVID-19 UOMI remission will also be significantly easier for Inland Revenue to administer, and for taxpayers to understand, than the targeted extensions previously agreed to.

Financial implications

13. A general extension of COVID-19 UOMI relief until 7 April 2024 is estimated to have a gross interest charge of $5.82 million, which is impaired by $4.58 million. This results in a net fiscal cost of approximately $1.24 million over the forecast period.

14. However, the targeted extensions that were previously agreed to have a comparable net fiscal cost of $150,000. The changes to appropriations resulting from this fiscal impact have been agreed to but have not yet been included in baselines. The general extension recommended in this report therefore has an additional cost of $1.09 million beyond the targeted extensions previously agreed to, since the new cost of $1.24 million replaces the previous cost of $150,000.

15. This fiscal impact assumes that any new instalment arrangements set up from now are scheduled to finish by 7 April 2024 so that they get the benefit of UOMI remission. It also assumes reduced demand for UOMI relief due to a reduction in the 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.

16. The Treasury has advised that, given the Omicron outbreak, there is a case for charging this cost to the COVID-19 Response and Recovery Fund (CRRF) as outlined below.

Consultation

17. The Treasury has been consulted on this report and has provided the following comments.

18. In September 2021, the Treasury did not support funding to extend the power to suppress and remit UOMI for new instalment arrangements to 2024. This was because the economic impact of the COVID-19 pandemic appeared to be abating (especially as vaccination rates were improving and there was therefore less prospect of major disruptive outbreaks and the associated economic cost). The Minister of Finance had also made clear his view that the balance of the CRRF should be used only for "core economic response measures," as well as other targeted, urgent, or essential costs. In the Treasury's view, extending UOMI relief did not meet these criteria at that time.

19. Today, the criteria remain in force, but the situation has changed; given the likelihood of an Omicron outbreak and the economic harms that would result from it, the Treasury supports reconsidering the decision on UOMI relief. Extending UOMI relief is a cost-effective way to support affected taxpayers, especially smaller taxpayers. It would also usefully fill a gap in the range of support currently being considered, in that it encourages personalised instalment arrangements where these are appropriate. In short, there is now a stronger case for providing additional relief, funded through the CRRF.

Next steps

20. Subject to your agreement to the general extension as recommended, officials will issue a drafting instruction to the Parliamentary Counsel Office to draft an Order in Council that gives effect to this extension.

21. Officials will report to the Minister of Revenue with a draft Cabinet paper and a copy of the draft Order in Council to be considered at the Cabinet Legislation Committee on 10 March 2022. This will allow for consideration by Cabinet on 14 March 2022 and submission to Executive Council on the same day.

22. Assuming a waiver of the 28-day rule for Orders in Council to come into force, the general extension will be given effect before the current expiry date of 24 March 2022.

Recommended action

We recommend that you:

23. **note** that joint Ministers have previously agreed to targeted extensions of COVID-19 UOMI relief for:

    23.1 Taxpayers in existing instalment arrangements as at 24 March 2022, extended to 31 March 2024; and

    23.2 Provisional taxpayers with less than $1 million in residual income tax, extended to 7 April 2023;

Noted | Noted

24. **agree** to a general extension of UOMI remission for all taxpayers that are significantly adversely affected by COVID-19 until 7 April 2024;

Agreed/Not agreed | Agreed/Not agreed

25. **note** that, given two targeted extensions of UOMI relief have already been agreed to, the net operating balance impact of the decision in recommendation 24 is $1.09 million over the forecast period;

Noted | Noted

26. **note** the following change to forecast tax revenue to give effect to the decision in recommendation 24, with a corresponding impact on the operating balance and net core Crown debt;

	$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**	**-**	**-**

Noted | Noted

27. **agree** to the following change to appropriations to give effect to the decision in recommendation 24, with a corresponding impact on the operating balance only;

	$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)**	**-**	**-**

Agreed/Not agreed | Agreed/Not agreed

28. **agree** to charge the net operating balance impact described in recommendation 25 to the COVID-19 Response and Recovery Fund, established as part of Budget 2020;

Agreed/Not agreed Agreed/Not agreed

29. **authorise** Inland Revenue to issue a drafting instruction to the Parliamentary Counsel Office to draft an Order in Council that gives effect to this extension.

Agreed/Not agreed

Bary Hollow
Principal Policy Advisor
Policy and Regulatory Stewardship

Hon Grant Robertson
Minister of Finance
/ /2022

Hon David Parker
Minister of Revenue
/ /2022

Inland Revenue
Te Tari Taake

POLICY AND REGULATORY STEWARDSHIP

Tax policy report: Extending the COVID-19 information sharing power

Date:	2 February 2022	**Priority:**	High
Security level:	In Confidence	**Report number:**	IR2022/039

Action sought

	Action sought	Deadline
Minister of Revenue	**Agree** to recommendations **Authorise** drafting instructions to be issued to the Parliamentary Counsel Office	8 February 2022

Contact for telephone discussion (if required)

Name	Position	Telephone
Carolyn Elliott	Policy Lead	s 9(2)(a)
Kaitlyn Saunders	Policy Advisor	s 9(2)(a)

02 February 2022

Minister of Revenue

Extending the COVID-19 information sharing power

Purpose

1. This report seeks your agreement to extend the current time limit on sharing information with other agencies for COVID-19 related activities to when the open-ended time limit comes into place.

2. This report also seeks your authority for Inland Revenue to provide drafting instructions to the Parliamentary Counsel Office to draft an Order in Council to extend the current information-sharing time limit on COVID-19 related activities to the 31 March 2022.

Background

3. In March 2020, the *COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020* introduced several urgent powers to enable government agencies to respond to the COVID-19 crisis.

4. These powers were related to the delivery of several key projects designed to support New Zealanders through the economic uncertainty that the pandemic introduced. Inland Revenue administered several of these initiatives as well as supporting other agencies in the delivery of their own projects. For this work to be possible, Inland Revenue needed to share information with other agencies.

5. Tax legislation requires Inland Revenue staff to keep taxpayer information confidential unless a specific legislative exception authorises the disclosure. There are several existing exceptions in tax legislation enabling Inland Revenue to share information with other agencies.[1]

6. Inland Revenue did not have any existing information sharing arrangements, or found the existing arrangements were not flexible enough, to allow the required COVID-19 response sharing to occur with several relevant agencies. Consequently, an emergency provision was introduced to the *Tax Administration Act 1994* that enabled Inland Revenue to share information with other agencies for the delivery of COVID-19 specific initiatives.[2]

7. The information sharing provision includes a time limit, meaning it ceases to be in effect once 24 months have passed from the date of the clause commencing. The provision is currently due to expire on 17 March 2022. This time limit can be extended by Order in Council which must be made before the expiry of the 24-month period and requires the recommendation of the Minster of Revenue. This allows the Government to continue sharing information, if required, in response to COVID-19 after the initial two-year period.

8. The current information-sharing time limit is due to be removed on 31 March 2022 (IR2021/220 refers). An extension of the current time limit is required to ensure the sharing of information with other agencies for COVID-19 related activities can

[1] Other agencies do not have equivalent requirements around secrecy, they share information with Inland Revenue under the Privacy Act 1993.
[2] Schedule 7, clause 23B. These agencies are all Government departments, the New Zealand Police, the Accident Compensation Corporation, Kāinga Ora–Homes and Communities and Callaghan Innovation.

continue between the end of the 24-month time period (17 March) and the start of the open-ended time limit (31 March).

Consultation

9. The Treasury has been informed on the contents of this report.

Next steps

10. Subject to your agreement, officials will issue a drafting instruction to the Parliamentary Counsel Office to draft an Order in Council that gives effect to this extension.

11. Officials will report to you with a draft Cabinet paper and a copy of the draft Order in Council to be considered at the Cabinet Legislation Committee on 10 March 2022. This will allow for consideration by Cabinet on 14 March 2022 and submission to Executive Council on the same day.

12. Assuming a waiver of the 28-day rule for Orders in Council to come into force, the Order in Council will be given effect before the current expiry date of 17 March 2022.

Recommended action

We recommend that you:

13. **agree** to extend the current time limit on information-sharing with other agencies for COVID-19 related activities to 31 March 2022, until the removal of this time limit comes into place.

Agreed/Not agreed

14. **authorise** Inland Revenue to issue a drafting instruction to the Parliamentary Counsel Office to draft an Order in Council that gives effect to this extension.

Authorised

s 9(2)(a)

Carolyn Elliott
Policy Lead
Policy and Regulatory Stewardship

Hon David Parker
Minister of Revenue
/ /2022

POLICY AND REGULATORY STEWARDSHIP

Tax policy report: **Orders in Council: COVID-19: Extension of tax measures**

Date:	10 February 2022	**Priority:**	Medium
Security level:	In Confidence	**Report number:**	IR2022/050

Action sought

	Action sought	Deadline
Minister of Revenue	**Authorise** and **lodge** the attached Cabinet paper	10am, Thursday 3 March 2022

Contact for telephone discussion (if required)

Name	Position	Telephone
Bary Hollow	Principal Policy Advisor	s 9(2)(a)
David Cuellar	Senior Policy Advisor	s 9(2)(a)

10 February 2022

Minister of Revenue

Orders in Council: COVID-19: Extension of tax measures

Summary

1. This report asks you to authorise and lodge the attached Cabinet paper with the Cabinet Office by 10am Thursday 3 March 2022 for consideration at the Cabinet Legislation Committee meeting on Thursday 10 March 2022.

2. The Cabinet paper seeks agreement to submit two Orders in Council to the Executive Council on Monday 14 March 2022. These Orders in Council extend two tax measures developed in response to COVID-19. You have previously agreed to the following extensions:

   2.1 An extension of use of money interest relief for taxpayers that are significantly adversely affected by COVID-19 (IR2022/026 refers); and

   2.2 An extension of the current time limit on information sharing with government agencies for COVID-19 related activities (IR2022/039 refers).

3. To ensure these extensions can operate in time (before the tax measures expire), the Cabinet paper also seeks agreement to waivers of the 28-day rule for Orders in Council coming into force.

4. Officials will provide you with speaking notes to accompany consideration of the attached Cabinet paper.

Consultation

5. The Treasury was informed of this report and the attached Cabinet paper.

Recommended action

We recommend that you:

6. **authorise** and **lodge** the attached Cabinet paper to the Cabinet Office by 10am Thursday 3 March 2022.

   Authorised and lodged/Not authorised and lodged

s 9(2)(a)

Bary Hollow
Principal Policy Advisor
Policy and Regulatory Stewardship

Hon David Parker
Minister of Revenue
/ /2022

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

Cabinet Legislation Committee

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

COVID-19: Extension of Tax Measures

Portfolio **Revenue**

On 10 March 2022, the Cabinet Legislation Committee:

Use of money interest remission

1 **noted** that the Taxation (Extension of COVID-19 Interest Remission) Order 2022 extends 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 **agreed** that the Taxation (Extension of COVID-19 Interest Remission) Order 2022 give effect to this extension of UOMI relief;

3 **noted** 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 **agreed** to a waiver of 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 **authorised** the submission to the Executive Council of the Taxation (Extension of COVID-19 Interest Remission) Order 2022 [PCO 24538/5.0];

6 **noted** 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)**	**-**	**-**

7 **agreed** to charge the net operating balance impact, as shown in the tables at paragraph 6 above, against the COVID-19 Response and Recovery Fund established as part of Budget 2020;

COVID-19 information sharing power

8 **noted** that the Tax Administration (Extension of Power to Disclose Information Relating to COVID-19 Response) Order 2022 extends the ability for Inland Revenue to share information regarding COVID-19 related activities with government agencies until 31 March 2022;

9 **agreed** 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 **noted** 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 **agreed** to a waiver of 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 **authorised** the submission to the Executive Council of the Tax Administration (Extension of Power to Disclose Information Relating to COVID-19 Response) Order 2022 [PCO 24575/6.0].

Rebecca Davies
Committee Secretary

Present:
Hon Chris Hipkins (Chair)
Hon Dr Megan Woods
Hon Carmel Sepuloni
Hon Andrew Little
Hon Poto Williams
Hon Michael Wood
Hon Kiri Allan
Hon Dr David Clark
Hon Meka Whaitiri
Hon Phil Twyford
Kieran McAnulty, MP

Officials present from:
Office of the Prime Minister
Officials Committee for LEG