

# Hon David Parker, Minister of Revenue

## Information Release

### Taxation (Use of Money Interest Rates) Amendment Regulations (No 2) 2022

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-0131>

#### Documents in this information release

#	Reference	Type	Title	Date
1	IR2022/347	Report	Use of money interest rates review	5 July 2022
2	LEG-22-SUB-0131	Cabinet paper	Taxation (Use of Money Interest Rates) Amendment Regulations (No 2) 2022	11 August 2022
3	LEG-22-MIN-0131	Minute	Taxation (Use of Money Interest Rates) Amendment Regulations (No 2) 2022	15 August 2022

#### Additional information

The Cabinet paper was considered by the Legislative Committee on 11 August 2022 and confirmed by Cabinet on 15 August 2022.

One attachment to the Cabinet paper is not included in this information release as it is publicly available:

- Order in Council – Taxation (Use of Money Interest Rates) Amendment Regulations (No 2) 2022<sup>1</sup>

#### 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

#### Accessibility

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<sup>1</sup> <https://www.legislation.govt.nz/regulation/public/2022/0233/8.0/whole.html#LMS730645>

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## POLICY AND REGULATORY STEWARDSHIP

**Tax policy report: Use of money interest rates review**

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<b>Date:</b>	5 July 2022	<b>Priority:</b>	Medium
<b>Security level:</b>	In Confidence	<b>Report number:</b>	IR2022/347

### Action sought

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	<b>Action sought</b>	<b>Deadline</b>
Minister of Revenue	<p><b>Agree</b> to adjust the use of money interest rates as set out in the report.</p> <p><b>Sign</b> and <b>refer</b> the attached paper to the Cabinet Office for consideration at the LEG meeting on 4 August 2022.</p>	18 July 2022

### Contact for telephone discussion (if required)

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<b>Name</b>	<b>Position</b>	<b>Telephone</b>
Paul Fulton	Principal Policy Advisor	s 9(2)(a)
Bradd Forster	Policy Advisor	

5 July 2022

Minister of Revenue

## **Use of money interest rates review**

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### **Purpose**

1. This report brings to your attention the outcome of the regular review of the use of money interest (UOMI) rates. It seeks your agreement to increasing the rates in line with the latest increases in market interest rates.

### **Context and background**

2. The UOMI rates, along with other rates used in the tax system,<sup>1</sup> are reviewed regularly to ensure that they align with market interest rates. The rates are calculated using formulae based on the Reserve Bank of New Zealand (RBNZ) survey of interest rates.
3. The UOMI rates are an important component of the tax compliance rules. By changing in line with underlying market rates, the UOMI rates provide taxpayers with the incentive to pay the right amount of tax at the right time. They apply to all revenue and duties.

### **UOMI rates**

4. There are two UOMI rates:
  - 4.1 the taxpayer's paying rate (also known as the UOMI underpayment rate), which is charged on underpayments of tax to Inland Revenue;
  - 4.2 the Commissioner's paying rate (also known as the UOMI overpayment rate), which is paid by the Commissioner on money paid to Inland Revenue above a taxpayer's tax liability.
5. The underpayment rate is currently 7.28%, based on RBNZ figures from December 2021, while the overpayment rate is capped so that it cannot go below zero, where it currently is.

### **Principles for updating the rates**

6. Longstanding administrative principles in setting the rates provide that both UOMI rates should be adjusted if:
  - 6.1 the RBNZ 90-day bank bill rate or the floating first mortgage new customer housing rate moves by 100 basis points or more from the figures used to calculate the last rate change; or
  - 6.2 one of these indexes moves by 20 basis points or more and the UOMI rates haven't been adjusted in the last 12 months.

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<sup>1</sup> The other rates are the FBT interest rate on employment-related loans and the deemed rate of return on attributing interests in foreign investment funds.

**In Confidence**

7. When regulations are made altering the UOMI rates, the adjustment is applied from the day after the next standard provisional tax payment date – which is 28 August 2022. However, 28 August falls on a Sunday which makes 29 August 2022 the date that tax payable is due. Therefore, the increased UOMI rates start applying from the next day which is 30 August 2022.
8. The next Executive Council meeting is scheduled on 8 August 2022. To minimise compliance costs the new rates should apply from 30 August 2022. To meet this deadline, a waiver of the 28-day rule is required. This is recommended due to the possibility for the UOMI rates to become seriously misaligned with market interest rates if the change is delayed until the next possible date to update the UOMI rates.
9. The formula for setting the rates is set out in the Taxation (Use of Money Interest Rates Setting Process) Regulations 1997 as follows:
  - 9.1 Section 2 of the Regulations provides that the taxpayer's paying rate is set at the RBNZ floating first mortgage new customer housing rate plus 250 basis points (or 2.5%);
  - 9.2 Section 3 of the Regulations provides that the Commissioner's paying rate is set at the RBNZ 90-day bank bill rate less 100 basis points (or 1 percentage point). However, if this calculation would produce a figure lower than 0%, the rate is instead set at 0%, to ensure overpayments do not accrue negative interest.
10. The floating first mortgage new customer housing rate is a proxy for a debt that a taxpayer might prioritise over their tax obligations. In the absence of a UOMI charge, a taxpayer wanting to borrow money could simply underpay their tax and use Inland Revenue like a bank rather than borrow from a bank at a commercial interest rate. A conservative margin of 250 basis points is added to the mortgage rate in calculating the underpayment UOMI rate because the Commissioner does not have information about the likelihood of any individual taxpayer paying the UOMI charged to them (i.e., the taxpayer's creditworthiness).
11. The Regulations provide that the methodology for setting the interest rate for overpaid tax is the latest RBNZ 90-day bank bill rate less 100 basis points. The RBNZ 90-day bank bill rate is the monthly average of the daily standard rates, and approximates the return a taxpayer might expect on a low-risk investment in the New Zealand Government. Ensuring that the Commissioner pays less interest to the taxpayer on overpaid tax than the taxpayer would receive as a return from a low-risk bond aims to prevent a payment of tax to Inland Revenue being used as an investment.

**Results of latest RBNZ figure review**

12. According to RBNZ figures from May 2022, the 90-day bank bill rate has risen more than 100 basis points from its position at December 2021, which triggers the UOMI rates to be reset.
13. The UOMI underpayment rate should be increased to 7.96%, while the UOMI overpayment rate should be increased to 1.22%.
14. The RBNZ floating first mortgage new customer rate has risen by 68 basis points since December 2021 (the last time the UOMI rates were set). Accordingly, the underpayment rate should be increased by 68 basis points, from 7.28% to 7.96%.
15. The overpayment rate should be increased by 122 basis points, from 0% to 1.22%, due to the 90-day bank bill rate rising 131 basis points between December 2021 and May 2022. This discrepancy is due to the overpayment rate previously being set at the lower limit of 0%.

**Fiscal Impact**

16. The change to the underpayment rate will increase revenue over the forecast period. At the same time, the increased overpayment rate will reduce revenue over the forecast period.
17. Overall, it is estimated that the net tax revenue impact will be negative, as the cost of increasing the overpayment rate is expected to exceed the revenue from increasing the underpayment rate.

<b>\$ millions increase / (decrease)</b>					
<b>Vote Revenue</b>	<b>2021/22</b>	<b>2022/23</b>	<b>2023/24</b>	<b>2024/25</b>	<b>2025/26 and outyears</b>
Tax Revenue impact of change to Underpayment rate	-	17.000	21.000	21.000	21.000
Tax Revenue impact of change to Overpayment rate	-	(29.000)	(35.000)	(35.000)	(35.000)
<b>Net Tax Revenue Impact</b>	<b>-</b>	<b>(12.000)</b>	<b>(14.000)</b>	<b>(14.000)</b>	<b>(14.000)</b>

18. A large part of underpayment debt is typically written off, meaning the cost to revenue is larger than the net revenue impact reported above. To represent this, underpayments are impaired by 78.7% in the Crown accounts to reflect that most UOMI charged is never paid and must be written off. Increasing the underpayment rate thus also increases impairment expenditure. The total fiscal impact and operating expenditure for the forecast period taking this impairment into account are presented below.

<b>\$ millions increase / (decrease)</b>					
<b>Vote Revenue</b>	<b>2021/22</b>	<b>2022/23</b>	<b>2023/24</b>	<b>2024/25</b>	<b>2025/26 and outyears</b>
Crown Revenue and Receipts:					
Tax Revenue	-	(12.000)	(14.000)	(14.000)	(14.000)
Non-Departmental Other Expense:					
Impairment of debt and debt write-offs	-	14.000	17.000	17.000	17.000
<b>Total operating</b>	<b>-</b>	<b>26.000</b>	<b>31.000</b>	<b>31.000</b>	<b>31.000</b>

**Consultation**

19. Inland Revenue has consulted with the Treasury, the Parliamentary Counsel Office (PCO), and the New Zealand Customs Service (Customs) on this report. They agree with the recommendations.

**In Confidence**

20. Customs advise that a change in the underpayment UOMI rate will have some small operational and financial impacts. Customs' compensatory interest rate is aligned with the UOMI underpayment rate, and an increase in the underpayment rate will correspondingly result in an increase to the compensatory interest rate.
21. This increase will in turn have a very small financial impact on Vote Customs. Customs collected \$342,397.82 compensatory interest in the 12 months to 30 June 2022. They advise us that an additional 68 basis point increase in the UOMI would collect an additional \$31,982.221 compensatory interest.

**Next steps**

22. Officials have advised PCO that a draft Order in Council changing the rates may need to be prepared depending on your decision.
23. Attached is a paper to the Cabinet Legislation Committee, recommending that it approve the Order in Council and authorise their submission to Cabinet and the Executive Council. If you decide to increase the UOMI rates, the paper should be referred to Cabinet Office by 10am, Thursday 28 July 2022. This would enable the Cabinet Legislation Committee to consider the paper on 4 August 2022.

**Recommended action**

We recommend that you:

- a. **agree** to increase the UOMI underpayment rate to 7.96% (from 7.28%) and the UOMI overpayment rate to 1.22% (from 0%), effective from 30 August 2022.

Agreed/Not agreed

- b. **note** that agreeing to a commencement date of 30 August 2022 will require you to seek a waiver of the 28-day rule in the paper to be taken to cabinet on 4 August 2022;

Noted

- c. **note** the following fiscal impacts arising from the decision to change the UOMI rates, with a corresponding impact on the operating balance and net core Crown debt:

<b>\$ millions increase / (decrease)</b>					
<b>Vote Revenue</b>	<b>2021/22</b>	<b>2022/23</b>	<b>2023/24</b>	<b>2024/25</b>	<b>2025/26 and outyears</b>
Crown Revenue and Receipts:	-	(12.000)	(14.000)	(14.000)	(14.000)
Tax Revenue					
Non-Departmental Other Expense:	-	14.000	17.000	17.000	17.000
Impairment of debt and debt write-offs					
<b>Total operating</b>	<b>-</b>	<b>26.000</b>	<b>31.000</b>	<b>31.000</b>	<b>31.000</b>

Noted

- d. **note** that the fiscal impacts will be treated as a forecast change, and so will have no impact on allowances;

Noted

- e. **agree** that the proposed change to the *Impairment of Debt and Debt Write-offs* appropriation for 2022/23 above be included in the 2022/23 Supplementary Estimates and that, in the interim, the increase(s) be met from Imprest Supply;

Agreed/Not agreed

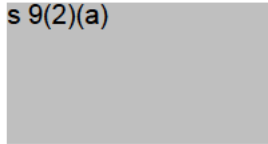
- f. **agree** that PCO draft an Order in Council to adjust the UOMI rates;

Agreed/Not agreed

- g. **approve** and **lodge** the attached Cabinet paper to the Cabinet Office by 10am Thursday 28 July 2022 for consideration by Cabinet Legislation Committee at its meeting on 4 August 2022.

Agreed/Not agreed

s 9(2)(a)



Paul Fulton

**Principal Policy Advisor**

**Hon David Parker**

Minister of Revenue

/ /2022



In Confidence

Office of the Minister of Revenue

Chair, Cabinet Legislation Committee

## **Taxation (Use of Money Interest Rates) Amendment Regulations (No 2) 2022**

### **Proposal**

- 1 This paper seeks the Cabinet Legislation Committee's agreement to submit an Order in Council amending the Taxation (Use of Money Interest Rates) Regulations 1998 to the Executive Council.
- 2 It is proposed to amend the regulation so the underpayment use of money interest (UOMI) rate is set at 7.96%, while the overpayment UOMI rate is set at 1.22%.

### **Policy**

- 3 The UOMI rates play an important role in the tax compliance rules. By moving in line with underlying market rates, the UOMI rates provide taxpayers with the incentive to pay the right amount of tax at the right time. The rates apply to all revenue and duties.
- 4 The Tax Administration Act 1994 provides for the UOMI underpayment and overpayment interest rates to be set by Order in Council. Once the rates are set, they remain the prescribed UOMI rates unless subsequently changed by Order in Council.
- 5 The methodology for calculating the rates is set out in the Taxation (Use of Money Interest Rates Setting Process) Regulations 1997 (the Regulations). The Regulations provide that the interest rate for underpaid tax should be set at the Reserve Bank of New Zealand (RBNZ) floating first mortgage new customer housing rate plus 250 basis points. The floating first mortgage new customer housing rate reflects the variable interest rate offered by surveyed institutions to new borrowers for residential property, weighted by each surveyed institution's total lending outstanding for housing purposes.
- 6 The Regulations provide that the interest rate for overpaid tax is set at the latest RBNZ 90-day bank bill rate less 100 basis points, or, if this would produce a negative figure, at 0%. The RBNZ 90-day bank bill rate is the monthly average of the daily standard rates.
- 7 The current underpayment and overpayment rates are 7.28% and 0% respectively. The UOMI rates were last changed by Order in Council with effect from 10 May 2022 and were based on the interest rates for December 2021.

- 8 The RBNZ interest rates for May 2022 indicate that the 90-day bank bill rate has changed by 131 basis points, to 2.22%, since the rates were last adjusted. I consider that an adjustment of the UOMI rates is necessary to avoid a long-term misalignment. I therefore recommend the overpayment rate be increased to 1.22%.
- 9 The floating first mortgage new customer housing rate has also changed by 68 basis points since the rates were last adjusted. Therefore, I also recommend that the underpayment rate be increased to 7.96%.

### **Timing and 28-day rule**

- 10 I propose to submit the Order in Council giving effect to the change in the UOMI underpayment rate to Cabinet for approval and submission to the Executive Council at its meeting on 8 August 2022. In order to minimise compliance costs, it is proposed that the new rate comes into force on 30 August 2022, the day after the due date for the third standard instalment of provisional tax.
- 11 To meet this deadline, a waiver of the 28-day rule is required. I recommend that this waiver be granted. The next possible date for updating the use of money interest rates is the day after 15 January 2023, the next available standard provisional tax payment date. As interest rates are climbing rapidly and will likely continue to rise, delaying the update until January is likely to result in serious misalignment of the use of money interest rates and the relevant market interest rates, which poses potential fiscal risks.

### **Compliance**

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

### **Regulations Review Committee**

- 13 There are no anticipated grounds for the Regulations Review Committee to draw the Order in Council to the attention of the House under Standing Order 319.

### Certification by Parliamentary Counsel

- 14 The Parliamentary Counsel Office has certified that the attached Order in Council is in order for submission to Cabinet.

### Impact Analysis

- 15 A regulatory impact assessment is not required as the proposal is of a minor and routine nature and does not substantially alter existing arrangements.

### Financial Implications

- 16 The proposal to increase the UOMI rates, with the effective date of 30 August 2022, is estimated to result in net negative revenue of approximately \$119 million over the forecast period. While the change to the underpayment rate will increase revenue over the forecast period, the increased overpayment rate will reduce revenue over the forecast period at a greater rate. This is shown in the table below.

<b>\$ millions increase / (decrease)</b>					
<b>Vote Revenue</b>	<b>2021/22</b>	<b>2022/23</b>	<b>2023/24</b>	<b>2024/25</b>	<b>2025/26 and outyears</b>
Tax Revenue impact of change to Underpayment rate	-	17.000	21.000	21.000	21.000
Tax Revenue impact of change to Overpayment rate	-	(29.000)	(35.000)	(35.000)	(35.000)
<b>Net Tax Revenue Impact</b>	<b>-</b>	<b>(12.000)</b>	<b>(14.000)</b>	<b>(14.000)</b>	<b>(14.000)</b>

- 17 Additionally, a large part of underpayment debt is typically written off, meaning the cost to revenue is larger than the net revenue impact reported above. To represent this, underpayments are impaired by 78.7% in the Crown accounts to reflect that most UOMI charged is never paid and must be written off. Increasing the underpayment rate thus also increases impairment expenditure.
- 18 The total fiscal impact and operating expenditure for the forecast period taking this impairment into account are presented in the table below

<b>\$ millions increase / (decrease)</b>					
<b>Vote Revenue</b>	<b>2021/22</b>	<b>2022/23</b>	<b>2023/24</b>	<b>2024/25</b>	<b>2025/26 and outyears</b>
Crown Revenue and Receipts: Tax Revenue	-	(12.000)	(14.000)	(14.000)	(14.000)
Non-Departmental Other Expense: Impairment of debt and debt write-offs	-	14.000	17.000	17.000	17.000
<b>Total operating</b>	-	<b>26.000</b>	<b>31.000</b>	<b>31.000</b>	<b>31.000</b>

### Publicity

- 19 Inland Revenue will publish an item about these changes in its *Tax Information Bulletin*.

### Proactive Release

- 20 I propose to proactively release this Cabinet paper, associated minutes, and key advice papers in whole within 30 working days of Cabinet making final decisions.

### Consultation

- 21 The Treasury, the New Zealand Customs Service, and the Parliamentary Counsel Office have been consulted in the preparation of this paper and agree with its recommendations.

### Recommendations

I recommend that the Cabinet Legislation Committee:

- 1 agree that the UOMI underpayment rate increase from 7.28% to 7.96%;
- 2 agree that the UOMI overpayment rate increase from 0% to 1.22%;
- 3 agree that the Taxation (Use of Money Interest Rates) Amendment Regulations (No 2) 2022 give effect to the rates referred to in paragraphs 1 and 2 above;
- 4 agree that the Taxation (Use of Money Interest Rates) Amendment Regulations (No 2) 2022 come into force on 30 August 2022.
- 5 note the following changes as a result of the decision in recommendations 1 and 2 above, with a corresponding impact on the operating balance:

<b>\$ millions increase / (decrease)</b>					
<b>Vote Revenue</b>	<b>2021/22</b>	<b>2022/23</b>	<b>2023/24</b>	<b>2024/25</b>	<b>2025/26 and outyears</b>
Crown Revenue and Receipts: Tax Revenue	-	(12.000)	(14.000)	(14.000)	(14.000)
Non-Departmental Other Expense: Impairment of debt and debt write-offs	-	14.000	17.000	17.000	17.000
<b>Total operating</b>	-	<b>26.000</b>	<b>31.000</b>	<b>31.000</b>	<b>31.000</b>

- 6 approve the forecast change in appropriations for Non-Departmental Other Expenses set out in recommendation 5, as a result of the decision in recommendations 1 and 2, with a corresponding impact on the operating balance:
- 7 note that a waiver of the 28-day rule is sought:
- 7.1 so that the Order can come into force on 30 August 2022;
- 7.2 on the grounds that the next possible date for updating the use of money interest rates is the day after 15 January 2023, and delaying the update until then is likely to result in serious misalignment of the use of money interest rates and the relevant market interest rates;
- 8 agree to waive the 28-day rule so that the Order comes into force on 30 August 2022;
- 9 authorise the submission to the Executive Council of the Taxation (Use of Money Interest Rates) Amendment Regulations (No 2) 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.*

### Taxation (Use of Money Interest Rates) Amendment Regulations (No 2) 2022

#### Portfolio Revenue

On 11 August 2022, the Cabinet Legislation Committee:

- 1 **noted** that the Use of Money Interest (UOMI) rates provide taxpayers with the incentive to pay the right amount of tax at the right time, by moving in line with underlying market rates;
- 2 **agreed** that the UOMI underpayment rate increase from 7.28 percent to 7.96 percent;
- 3 **agreed** that the UOMI overpayment rate increase from 0 percent to 1.22 percent;
- 4 **agreed** that the Taxation (Use of Money Interest Rates) Amendment Regulations (No 2) 2022 (the Amendment Regulations) give effect to the rates referred to in paragraphs 1 and 2 above;
- 5 **agreed** that the Amendment Regulations come into force on 30 August 2022;
- 6 **noted** the following changes as a result of the decision in paragraphs 1 and 2 above, with a corresponding impact on the operating balance:

Vote Revenue	\$ millions increase / (decrease)				
	2021/22	2022/23	2023/24	2024/25	2025/26 and outyears
Crown Revenue and Receipts:	-	(12.000)	(14.000)	(14.000)	(14.000)
Tax Revenue					
Non-Departmental Other Expense: Impairment of debt and debt write-offs	-	14.000	17.000	17.000	17.000
<b>Total operating</b>	-	<b>26.000</b>	<b>31.000</b>	<b>31.000</b>	<b>31.000</b>

- 7 **approved** the forecast change in appropriations for Non-Departmental Other Expenses set out in paragraph 5, as a result of the decision in paragraphs 1 and 2, with a corresponding impact on the operating balance;

- 8 **noted** that a waiver of the 28-day rule is sought:
- 8.1 so that the Amendment Regulations can come into force on 30 August 2022;
  - 8.2 on the grounds that the next possible date for updating the use of money interest rates is the day after 15 January 2023, and delaying the update until then is likely to result in serious misalignment of the use of money interest rates and the relevant market interest rates;
- 9 **agreed** to waive the 28-day rule so that the Amendment Regulations comes into force on 30 August 2022;
- 10 **authorised** the submission to the Executive Council of the Taxation (Use of Money Interest Rates) Amendment Regulations (No 2) 2022 [PCO 24946/3.0].

Rebecca Davies  
Committee Secretary

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**Present:**

Hon Grant Robertson  
Hon David Parker (Chair)  
Hon Aupito William Sio  
Dr Duncan Webb, MP

**Officials present from:**

Office of the Prime Minister  
Officials Committee for LEG