

Hon Barbara Edmonds, Minister of Revenue

Information Release

Taxation (Use of Money Interest Rates) Amendment Regulations (No 2) 2023

August 2023

Availability

This information release will be made available following announcement of the decision on Inland Revenue's tax policy website at <https://taxpolicy.ird.govt.nz/publications/2023/2023-ir-cab-leg-23-sub-0118>

Documents in this information release

#	Reference	Type	Title	Date
1	IR2023/190	Policy report	Use of money interest rates review (No 2)	29 June 2023
2	LEG-23-SUB-0118	Cabinet paper	Taxation (Use of Money Interest Rates) Amendment Regulations (No 2) 2023	20 July 2023
3	LEG-23-MIN-0118	Minute	Taxation (Use of Money Interest Rates) Amendment Regulations (No 2) 2023	20 July 2023

Additional information

The Cabinet paper was considered by the Cabinet Legislation Committee on 20 July 2023 and confirmed by Cabinet on 24 July 2023.

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 \(No 2\) 2023](#)

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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POLICY AND REGULATORY STEWARDSHIP

Tax policy report: Use of money interest rates review 2023 (No.2)

Date:	29 June 2023	Priority:	Medium
Security level:	In Confidence	Report number:	IR2023/190

Action sought

	Action sought	Deadline
Minister of Finance	Agree to adjust the use of money interest rates as set out in the report.	13 July 2023
Associate Minister of Revenue	Agree to adjust the use of money interest rates as set out in the report. Sign and refer the attached paper to the Cabinet Office for consideration at the LEG meeting on 20 July 2023.	13 July 2023

Contact for telephone discussion (if required)

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

29 June 2023

Minister of Finance
Associate Minister of Revenue

Use of money interest rates review 2023 (No. 2)

Purpose

1. This report discusses the outcome of the regular review of the use of money interest (UOMI) rates. It seeks your agreement to increase 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,¹ 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 tax compliance rules. By changing with the 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 10.39% while the overpayment rate is currently 3.53%, based on RBNZ figures for December 2022.

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 have not been adjusted in the last 12 months.

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

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, in this case, is 29 August 2023.
8. The formula for setting the rates is set out in the Taxation (Use of Money Interest Rates Setting Process) Regulations 1997 as follows:
 - 8.1 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%);
 - 8.2 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 %). 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.
9. 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).
10. 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

11. According to RBNZ figures for May 2023, the 90-day bank bill rate has increased by 114 basis points from its rate as at December 2022, which triggers both UOMI rates to be reset. The UOMI underpayment rate should be increased to **10.91%**, while the UOMI overpayment rate should be increased to **4.67%**.
12. The RBNZ floating first mortgage new customer rate has risen by 52 basis points since May 2023 (the last time the UOMI rates were set). Accordingly, the underpayment rate should also increase by 52 basis points, from 10.39% to 10.91%.
13. The RBNZ 90-day bank bill rate has risen by 114 basis points since May 2023. Accordingly, the overpayment rate should also increase by 114 basis points, from 3.53% to 4.67%.
14. As the 90-day bank bill rate has increased more than the RBNZ floating first mortgage new customer rate, the margin between the UOMI underpayment and overpayment rates will narrow from 6.86% to 6.24%.

Fiscal impact

15. UOMI applies to both overpayments and underpayments of tax. More is charged by the Commissioner on underpayments than is paid to the taxpayer on overpayments.

However, the charges to underpayments are impaired in the Crown accounts to reflect that most UOMI charged is never paid, and therefore must be written-off. This means that an increase in the underpayment rate also produces an increase in impairment expenditure. The rate of impairment reflects the average repayment rate of recent debt, updated in October each year. The impairment rate for the year ended 30 June 2022 is 67.63%.

16. There is an estimated net reduction of \$6 million for the 2023/24 fiscal year and \$8 million per annum for 2024/25 and later years. The net reduction of \$6 million for the 2023/24 fiscal year is comprised of the \$7 million increase in revenue and \$13 million increase in impairment expenditure. The net reduction of \$8 million per annum for 2024/25 and later years are comprised of the \$8 million increase in revenue and \$16 million increase in impairment expenditure.
17. These are shown in the following tables:

\$ millions increase / (decrease)				
Vote Revenue Minister of Revenue	2023/24	2024/25	2025/26	2026/27 & outyears
Crown Revenue and Receipts:				
Tax revenue	7.000	8.000	8.000	8.000
Total Operating	(7.000)	(8.000)	(8.000)	(8.000)

\$ millions increase / (decrease)				
Vote Revenue Minister of Revenue	2023/24	2024/25	2025/26	2026/27 & outyears
Non-Departmental Other Expenses:				
Impairment of debt and bad debt write-offs	13.000	16.000	16.000	16.000
Total Operating	13.000	16.000	16.000	16.000

18. To meet the forecasted change to the revenue as above, the Impairment of Debt and Debt Write-offs appropriation needs to be amended. While the change is proposed via the 2023/24 Supplementary estimates, in the interim, the increase in the net debt should be met from Imprest Supply.

Consultation

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

Next steps

21. Attached is a paper to the Cabinet Legislation Committee that recommends the approval of 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 13 July 2023. This would enable the Cabinet Legislation Committee to consider the paper on 20 July 2023.

Recommended action

I recommend that you:

Recommendations	Minister of Finance	Associate Minister of Revenue																									
a) agree to increase the UOMI underpayment rate to 10.91% (from 10.39%) and the UOMI overpayment rate to 4.67% (from 3.53%), effective from 29 August 2023.	Agreed Not agreed	Agreed Not agreed																									
b) note the following changes as a result of the decision in recommendation (a) above, with a corresponding impact on the operating balance:	Noted	Noted																									
<table border="1"> <thead> <tr> <th colspan="5">\$ millions increase / (decrease)</th> </tr> <tr> <th>Vote Revenue Minister of Revenue</th> <th>2023/24</th> <th>2024/25</th> <th>2025/26</th> <th>2026/27 & outyears</th> </tr> </thead> <tbody> <tr> <td>Crown Revenue and Receipts:</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Tax revenue</td> <td>7.000</td> <td>8.000</td> <td>8.000</td> <td>8.000</td> </tr> <tr> <td>Total Operating</td> <td>(7.000)</td> <td>(8.000)</td> <td>(8.000)</td> <td>(8.000)</td> </tr> </tbody> </table>	\$ millions increase / (decrease)					Vote Revenue Minister of Revenue	2023/24	2024/25	2025/26	2026/27 & outyears	Crown Revenue and Receipts:					Tax revenue	7.000	8.000	8.000	8.000	Total Operating	(7.000)	(8.000)	(8.000)	(8.000)		
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Total Operating	(7.000)	(8.000)	(8.000)	(8.000)																							
c) approve the following forecast change in appropriations for Non-Departmental Other Expense as a result of the decision in recommendation (a) above, with a corresponding impact on the operating balance and net debt:	Approved Not approved	Approved Not approved																									
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Impairment of debt and bad debt write-offs	13.000	16.000	16.000	16.000																							
Total Operating	13.000	16.000	16.000	16.000																							
d) note that the fiscal impacts will be treated as a forecast change, and so will have no impact on allowances.	Noted	Noted																									

Recommendations	Minister of Finance	Associate Minister of Revenue
e) agree that the proposed change to the Impairment of Debt and Debt Write-offs appropriation for 2023/24 above be included in the 2023/24 Supplementary Estimates and that, in the interim, the increase(s) be met from Imprest Supply.	Agreed Not agreed	Agreed Not agreed
f) agree that PCO draft an Order in Council to adjust the UOMI rates.	Agreed Not agreed	Agreed Not agreed
g) approve and refer the attached Cabinet paper to the Cabinet Office by 10am Thursday 13 July 2023 for consideration by Cabinet Legislation Committee at its meeting on 20 July 2023.	N/A	Approved Not approved



Paul Fulton
Principal Policy Advisor

Hon Grant Robertson
Minister of Finance
/ /2023

Hon Dr. Deborah Russell
Associate Minister of Revenue
/ /2023

In Confidence

Office of the Associate Minister of Revenue

Cabinet Legislation Committee

TAXATION (USE OF MONEY INTEREST RATES) AMENDMENT REGULATIONS (NO 2) 2023

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 Regulations so the underpayment use of money interest (UOMI) rate is set at 10.91%, while the overpayment UOMI rate is set at 4.67%.

Policy

- 3 The UOMI rates are an important component of tax compliance rules. By changing with the 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.
- 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 another Order in Council.
- 5 The rates are calculated using formulae established in the Taxation (Use of Money Interest Rates Setting Process) Regulations 1997 (the Regulations) and the Reserve Bank of New Zealand (RBNZ) survey of interest rates.
- 6 The Regulations provide that the interest rate for underpaid tax should be set at the 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.
- 7 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.
- 8 The current underpayment and overpayment rates are 10.39% and 3.53% respectively. The UOMI rates were last changed by Order in Council with effect from 9 May 2023 and were based on the interest rates for December 2022.

- 9 The RBNZ interest rates for May 2023 indicate that the 90-day bank bill rate has changed by 114 basis points 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 4.67%.
- 10 The floating first mortgage new customer housing rate has also changed by 52 basis points since the rates were last adjusted. Therefore, I also recommend that the underpayment rate be increased to 10.91%.

Cost-of-living implications

- 11 The proposal effectively increases the cost of tax debt and so may have an impact on people and businesses that have underpaid their tax. The impact is consistent with movements in market interest rates. Conversely, people and businesses that have overpaid their tax will receive slightly more compensation for doing so.

Timing and 28-Day Rule

- 12 I propose to submit the Order in Council giving effect to the changes in the UOMI rates to Cabinet for approval and submission to the Executive Council. To minimise compliance costs, it is proposed that the new rates come into force on 29 August 2023, the day after the due date for the first standard instalment of provisional tax.

Compliance

- 13 The regulations comply with the principles, Acts, guidelines, and requirements set out below as follows:

13.1	the principles of the Treaty of Waitangi	Not applicable
13.2	the New Zealand Bill of Rights Act 1990	Not applicable
13.3	the Human Rights Act 1993	Not applicable
13.4	the principles and guidelines set out in the Privacy Act 1993	Not applicable
13.5	relevant international standards and obligations	Not applicable
13.6	the Legislation Guidelines (2021 edition), which are maintained by the Legislation Design and Advisory Committee	Complies

Regulations Review Committee

- 14 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 327.

Certification by Parliamentary Counsel

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

Impact Analysis

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

Use of external resources

- 17 No external resources were used for developing this proposal or in the preparation of this paper.

Financial Implications

- 18 The proposal to increase the UOMI rates, with the effective date of 29 August 2023, is estimated to result in net negative revenue of approximately \$30 million over the forecast period. This number comprises the impact of the changes on tax revenue and on impairment expenditure.
- 19 The forecast net tax revenue impact of the increased revenue from the underpayment adjustment and the increased cost of the overpayment adjustment is shown in the table below.

\$m increase / (decrease)				
Vote Revenue Minister of Revenue	2023/24	2024/25	2025/26	2026/27 & outyears
Crown Revenue and Receipts: Tax revenue	7.000	8.000	8.000	8.000
Total Operating	(7.000)	(8.000)	(8.000)	(8.000)

- 20 However, as a large part of underpayment debt is typically written off, there is a larger cost to revenue than is factored above. To represent estimated write-offs, underpayments are impaired in the Crown accounts. The impairment rate of 67.63% is based on debt repayment rates for the year ending 30 June 2022. Forecast impairment expenditure is presented in the table below:

\$m increase / (decrease)				
Vote Revenue Minister of Revenue	2023/24	2024/25	2025/26	2026/27 & outyears
Non-Departmental Other expenses: Impairment of debt and debt write-offs	13.000	16.000	16.000	16.000
Total operating	13.000	16.000	16.000	16.000

- 21 To meet the forecasted change to the revenue, the Impairment of Debt and Debt Write-offs appropriation needs to be amended. While the change is proposed via the 2023/24

Supplementary Estimates, in the interim, the increase in the net debt should be met from Imprest Supply.

Communications

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

Proactive Release

- 23 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

- 24 The Treasury and the New Zealand Customs Service 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 10.39% to 10.91%;
- 2 **agree** that the UOMI overpayment rate increase from 3.53% to 4.67%;
- 3 **agree** that the Taxation (Use of Money Interest Rates) Amendment Regulations (No 2) 2023 give effect to the rates referred to in recommendations 1 and 2 above;
- 4 **agree** that the Taxation (Use of Money Interest Rates) Amendment Regulations (No 2) 2023 come into force on 29 August 2023;
- 5 **note** the following forecast changes as a result of the decisions in recommendations 1 and 2 above, with a corresponding impact on the operating balance and/or net debt:

	\$m increase / (decrease)			
Vote Revenue Minister of Revenue	2023/24	2024/25	2025/26	2026/27 & outyears
Crown Revenue and Receipts:				
Tax revenue	7.000	8.000	8.000	8.000
Total Operating	(7.000)	(8.000)	(8.000)	(8.000)

- 6 **approve** the forecast change in appropriations for Non-Departmental Other Expenses as a result of the decision in recommendations 1 and 2, with a corresponding impact on the operating balance and/or net debt:

\$m increase / (decrease)				
Vote Revenue Minister of Revenue	2023/24	2024/25	2025/26	2026/27 & outyears
Non-Departmental Other expenses: Impairment of debt and debt write-offs	13.000	16.000	16.000	16.000
Total operating	13.000	16.000	16.000	16.000

- 7 **agree** that the proposed change to the Impairment of Debt and Debt Write-offs appropriation for 2023/24 above be included in the 2023/24 Supplementary Estimates and that, in the interim, the increase(s) be met from Imprest Supply;
- 8 **authorise** the submission to the Executive Council of the Taxation (Use of Money Interest Rates) Amendment Regulations (No 2) 2023.

Authorised for lodgement

Hon Dr Deborah Russell

Associate 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) 2023

Portfolio Associate Revenue

On 20 July 2023, the Cabinet Legislation Committee:

- 1 **agreed** that the UOMI underpayment rate increase from 10.39% to 10.91%;
- 2 **agreed** that the UOMI overpayment rate increase from 3.53% to 4.67%;
- 3 **agreed** that the Taxation (Use of Money Interest Rates) Amendment Regulations (No 2) 2023 give effect to the rates referred to in paragraphs 1 and 2 above;
- 4 **agreed** that the Taxation (Use of Money Interest Rates) Amendment Regulations (No 2) 2023 come into force on 29 August 2023;
- 5 **noted** the following forecast changes as a result of the decisions in paragraphs 1 and 2 above, with a corresponding impact on the operating balance and/or net debt:

\$m increase / (decrease)				
	2023/24	2024/25	2025/26	2026/27 & outyears
Vote Revenue				
Minister of Revenue				
Crown Revenue	7.000	8.000	8.000	8.000
and Receipts:				
Tax revenue				
Total Operating	(7.000)	(8.000)	(8.000)	(8.000)

- 6 **approved** the forecast change in appropriations for Non-Departmental Other Expenses as a result of the decision in paragraphs 1 and 2, with a corresponding impact on the operating balance and/or net debt:

\$m increase / (decrease)				
	2023/24	2024/25	2025/26	2026/27 & outyears
Vote Revenue				
Minister of Revenue				
Non-Departmental Other expenses:				
Impairment of debt and debt write-offs	13.000	16.000	16.000	16.000
Total operating	13.000	16.000	16.000	16.000

- 7 **agreed** that the proposed change to the Impairment of Debt and Debt Write-offs appropriation for 2023/24 above be included in the 2023/24 Supplementary Estimates and that, in the interim, the increase(s) be met from Imprest Supply;
- 8 **authorised** the submission to the Executive Council of the Taxation (Use of Money Interest Rates) Amendment Regulations (No 2) 2023 [PCO 25679/4.0].

Rebecca Davies
Committee Secretary

Present:

Hon Grant Robertson (Chair)
Hon Andrew Little
Hon Kiri Allan
Hon David Parker
Hon Kieran McAnulty
Hon Barbara Edmonds
Hon Willow-Jean Prime
Hon Dr Duncan Webb
Hon Dr Deborah Russell
Tangi Utikere, MP (Chief Government Whip)

Officials present from:

Office of the Prime Minister
Officials Committee for LEG