

NEW LEGISLATION > ORDER IN COUNCIL > SPECIAL REPORT

Order in Council – Income Tax (Fringe Benefit Tax, Interest on Loans) Amendment Regulations (No 2) 2023

SL 2023/184

This special report provides early information on an increase to the fringe benefit tax prescribed rate of interest for low-interest employment-related loans from 7.89% to 8.41%, effective from 1 October 2023, ahead of an upcoming edition of the *Tax Information Bulletin*.

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Order

Sections RA 21(3) and (4) of the Income Tax Act 2007

On 31 July 2023, the Order in Council – Income Tax (Fringe Benefit Tax, Interest on Loans) Amendment Regulations (No 2) 2023 was made. The regulations increase the fringe benefit tax (FBT) prescribed rate of interest for low-interest employment-related loans from 7.89% to 8.41%.

Background

The FBT rules tax non-cash benefits provided to employees. Included in the definition of ‘fringe benefit’ is any employment-related loan on which the employer is charging a rate of interest that is below the market rate. The interest differential is taxable.

A prescribed rate set by regulations is used as a proxy for the market rate of interest to save employers the compliance costs associated with determining the market rate relevant to loans they have provided to their employees.

Section RA 21(3) of the Income Tax Act 2007 permits the making of regulations by Order in Council to set a prescribed rate of interest for calculating FBT on low-interest loans. Once a rate is set, it remains the prescribed rate until changed by a subsequent Order in Council.

By administrative convention, the FBT prescribed rate of interest is based on the ‘floating first mortgage new customer housing rate’ series published by the Reserve Bank (RBNZ) each month. It is updated when there has been an increase or decrease in the RBNZ rate of 20 or more basis points since the FBT rate was last set. The RBNZ rate for May 2023 was 8.41%. This is up from 7.89%, the rate for December 2022, when the FBT prescribed rate of interest was last set. The FBT prescribed rate of interest is being lifted accordingly.

Effective date

The new prescribed rate of 8.41% applies for the quarter beginning 1 October 2023 and subsequent quarters.

Further information

The new regulations can be found at:

<https://www.legislation.govt.nz/regulation/public/2023/0184/4.0/whole.html>

About this document

Special reports are published shortly after new legislation is enacted or Orders in Council are made to help affected taxpayers and their advisors understand the consequences of the changes. These are published in advance of an article in the *Tax Information Bulletin*.