

In Confidence

Office of the Minister of Revenue

Chair, Cabinet Legislation Committee

## **TAXATION (USE OF MONEY INTEREST RATES) AMENDMENT REGULATIONS 2019**

### **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 (UOMI) interest rate is set at 8.35% and the overpayment UOMI rate is set at 0.81%.

### **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. The RBNZ 90-day bank bill rate is the monthly average of the daily standard rates.
7. The current underpayment and overpayment rates are 8.22% and 1.02% respectively. The UOMI rates were last changed by Order in Council with effect from 8 May 2017 and were based on the interest rates for February 2017.
8. The RBNZ interest rates for April 2019 indicate that the floating first mortgage new customer housing rate and the 90-day bank bill rate have changed by 13 and 21 basis points respectively since the rates were last adjusted. I consider that an adjustment of the UOMI rates is necessary to avoid a long-term misalignment.

9. Therefore, I recommend that the underpayment rate be changed to 8.35% and the overpayment rate be changed to 0.81%.

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

10. I propose to submit the Order in Council giving effect to the changes in UOMI rates to Cabinet for approval and submission to the Executive Council at its meeting on 1 July 2019. In order to minimise compliance costs it is proposed that the new UOMI rates come into force on 29 August 2019, the day after the due date for the first standard instalment of provisional tax. This also complies with the 28-day rule.

#### **Compliance**

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

11.1	the principles of the Treaty of Waitangi	Not applicable
11.2	the New Zealand Bill of Rights Act 1990	Not applicable
11.3	the Human Rights Act 1993	Not applicable
11.4	the principles and guidelines set out in the Privacy Act 1993	Not applicable
11.5	relevant international standards and obligations	Not applicable
11.6	the <i>Legislation Guidelines</i> (2018 edition), which are maintained by the Legislation Design and Advisory Committee	Complies

#### **Regulations Review Committee**

12. There are no anticipated grounds for the Regulations Review Committee to draw the Order in Council to the attention of the House.

#### **Certification by Parliamentary Counsel**

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

#### **Impact Analysis**

14. 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

15. The proposal is estimated to result in net positive revenue of \$27 million over the forecast period, with the effective date of 29 August 2019. The increase in tax revenue arises due to both a decrease in the Commissioner's paying rate and an increase in the underpayment rate for taxpayers. The tax revenue implications are shown below:

Vote Revenue Minister of Revenue	\$ millions increase / (decrease)				2022/23 & Outyears
	2018/19	2019/20	2020/21	2021/22	
Crown Revenue and Receipts: Tax Revenue	-	9.000	10.000	10.000	10.000
<b>Total Operating</b>	-	<b>9.000</b>	<b>10.000</b>	<b>10.000</b>	<b>10.000</b>

16. The tax revenue increase is offset by an increase in expenditure for impairment of debt and debt write-off costs, arising from an increase in the underpayment rate. Revenue from the underpayment rate is impaired by 80% in the Crown accounts to reflect that most UOMI charged is never paid. This impact on appropriations is shown in the table below:

Vote Revenue Minister of Revenue	\$ millions increase / (decrease)				2022/23 & Outyears
	2018/19	2019/20	2020/21	2021/22	
Non-Departmental Other Expense: Impairment of debt and debt write-offs (funded by Revenue Crown)	-	3.000	3.000	3.000	3.000
<b>Total Operating</b>	-	<b>3.000</b>	<b>3.000</b>	<b>3.000</b>	<b>3.000</b>

## Publicity

17. I will issue a media statement once the Order in Council is made by the Executive Council.
18. Inland Revenue will publish an item about these changes in its *Tax Information Bulletin*.

## Proactive Release

19. 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

20. Inland Revenue and the Treasury have been consulted in the preparation of this paper and agree with its recommendations.

**Recommendations**

The Minister of Revenue recommends that the Cabinet Legislation Committee:

1. **agree** that the use-of-money interest underpayment rate be changed to 8.35% from 8.22%;
2. **agree** that the use-of-money interest overpayment rate be changed to 0.81% from 1.02%;
3. **agree** that the Taxation (Use of Money Interest Rates) Amendment Regulations 2019 give effect to the new rates referred to in paragraphs 1 and 2 above;
4. **agree** that the Taxation (Use of Money Interest Rates) Amendment Regulations 2019 come into force on 29 August 2019.
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 Minister of Revenue</b>	<b>2018/19</b>	<b>2019/20</b>	<b>2020/21</b>	<b>2021/22</b>	<b>2022/23 &amp; Outyears</b>
Crown Revenue and Receipts: Tax Revenue	-	9.000	10.000	10.000	10.000
<b>Total Operating</b>	-	<b>9.000</b>	<b>10.000</b>	<b>10.000</b>	<b>10.000</b>

6. **approve** the following 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:

	<b>\$ millions increase / (decrease)</b>				
<b>Vote Revenue Minister of Revenue</b>	<b>2018/19</b>	<b>2019/20</b>	<b>2020/21</b>	<b>2021/22</b>	<b>2022/23 &amp; Outyears</b>
Non-Departmental Other Expense: Impairment of debt and debt write-offs (funded by Revenue Crown)	-	3.000	3.000	3.000	3.000
<b>Total Operating</b>	-	<b>3.000</b>	<b>3.000</b>	<b>3.000</b>	<b>3.000</b>

7. **authorise** the submission to the Executive Council of the Taxation (Use of Money Interest Rates) Amendment Regulations 2019.

Authorised for lodgement

Hon Stuart Nash  
Minister of Revenue