

POLICY AND REGULATORY STEWARDSHIP

Tax policy report: **Order in Council: Tax Administration (Canterbury Flood Event) Order 2021 - use of money interest relief**

Date:	2 June 2021	Priority:	High
Security level:	In Confidence	Report number:	IR2021/251

Action sought

	Action sought	Deadline
Minister of Revenue	<p>Approve and lodge the attached paper to Cabinet office</p> <p>Refer a copy of this report and the attached Cabinet paper to the Minister of Finance</p>	4 June 2021

Contact for telephone discussion (if required)

Name	Position	Telephone
Peter Frawley	Policy Lead	s 9(2)(a)
Brandon Sloan	Principal Policy Advisor	

2 June 2021

Minister of Revenue

Order in Council: Tax Administration (Canterbury Flood Event) Order 2021- use of money interest relief

1. A medium-scale adverse event has been declared for the wider Canterbury region as a result of the recent heavy rains and subsequent flooding.
2. In response to that event, this report recommends you approve and lodge the attached paper to Cabinet. The paper seeks Cabinet's approval for an Order in Council allowing Inland Revenue to remit interest charges on the late payment of tax for taxpayers who are physically prevented from making payment as a result of the flooding.
3. The current rate of interest (use-of-money interest) on underpayments of tax is 7%.
4. The level of flooding and disruption in Canterbury, resulting from the heavy rains that fell over the period 29 May to 1 June 2021, is physically preventing some taxpayers from meeting their tax obligations, including filing, and paying tax on time. For example, GST returns for taxpayers with taxable periods ending May and FBT quarterly returns are now due, and upcoming PAYE payments are due on 5 June. The late payment of these tax types results in the automatic imposition of interest by Inland Revenue.
5. The number of taxpayers affected by the flooding is not yet known.
6. Relief from late payment and late filing penalties is already available for taxpayers affected by the flooding. However, this relief does not extend to the remission of interest charged to compensate the Crown for the loss of the use of the revenue. This reflects that the remission of interest requires a higher threshold, such as a natural disaster, before the relief can be provided.

Order in Council: Tax Administration (Canterbury Flood Event) Order 2021

7. The Tax Administration Act 1994 allows for an Order in Council to be made allowing Inland Revenue to remit interest where:
 - 7.1 an emergency event physically prevents a taxpayer from paying tax on time;
 - 7.2 this non-payment results in the imposition of interest; and
 - 7.3 the taxpayer is a member of a class of persons eligible for remission of interest if the Order in Council declaring the emergency event describes such a class of persons.
8. The major flooding in Canterbury meets the criteria for remission. The Order would allow Inland Revenue to remit use-of-money interest incurred by taxpayers who were physically prevented from paying their tax on time due to the flooding. For the purposes of the Order, the emergency event is defined as the floods resulting from the heavy rains Canterbury received between 29 May and 1 June 2021.
9. While the Order allows Inland Revenue to remit amounts of interest incurred before the Order is made, it is desirable to authorise the relief as soon as possible. The reasons for this are taxpayer certainty and equity, and the efficient use of Inland Revenue resource.

10. The Order will expire on 31 August 2021. Tax debts that remain unpaid from PAYE, GST or FBT obligations would incur interest after that date.

Other tax relief for taxpayers

11. Under existing administrative relief, Inland Revenue is offering relief from late payment and late filing penalties for taxpayers affected by the floods. Farmers with income equalisation accounts who have been affected by flooding are able to make early withdrawals.
12. Some taxpayers may, under the circumstances, have lost some or all of their tax records. Inland Revenue is able to manage this situation under current law.
13. Recent tax changes giving favourable treatment to donated trading stock will also be of assistance to support the region's recovery.

Revenue implications

14. The baseline forecasts do not include the emergency event, nor the potential interest charges should the event trigger additional debt. Remission of interest charges arising from the Canterbury flood event will not have an effect on the existing fiscal baselines.

Consultation

15. Inland Revenue's advice has been informed by advice from the Ministry for Primary Industries.
16. The Treasury has been consulted in the preparation of this report. Officials have informed the Chartered Accountants of Australia and New Zealand about the proposed interest remission relief.
17. A copy of this report, and the attached paper to Cabinet, should be referred to the Minister of Finance for his information.

Recommended action

We recommend that you:

- (a) **Approve** and **lodge** the attached paper to Cabinet for its meeting on 8 June 2021.

Approved and lodged/Not approved

- (b) **Refer** a copy of this report and the attached Cabinet paper to the Minister of Finance for his information.

Referred/Not referred

Brandon Sloan

Principal Policy Advisor

Policy and Regulatory Stewardship

Hon David Parker

Minister of Revenue

/ /2021