

In Confidence

Office of the Minister of Revenue

Chair, Cabinet Legislation Committee

## **TAXATION (USE OF MONEY INTEREST RATES) AMENDMENT REGULATIONS 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 7.28%, while the overpayment UOMI rate remains at 0%.

### **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 7.00% and 0% respectively. The UOMI rates were last changed by Order in Council with effect from 8 May 2020 and were based on the interest rates for March 2020.
8. The RBNZ interest rates for December 2021 indicate that the floating first mortgage new customer housing rate has changed by 28 basis points since the rates were last adjusted. I consider that an adjustment of the UOMI underpayment rate is necessary to avoid a long-term misalignment. Therefore, I recommend that the underpayment rate be increased to 7.28%.

9. The 90-day bank bill rate has changed by 20 basis points, to 0.91%, since the rates were last adjusted. This does not require a change to the UOMI overpayment rate as the 90-day bank bill rate less 100 basis points remains below zero, and therefore I recommend the rate continue to be set at 0%.

### **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 4 April 2022. In order to minimise compliance costs, it is proposed that the new rate comes into force on 10 May 2022, the day after the due date for the third 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
  - 11.2 the New Zealand Bill of Rights Act 1990
  - 11.3 the Human Rights Act 1993
  - 11.4 the principles and guidelines set out in the Privacy Act 1993
  - 11.5 relevant international standards and obligations
  - 11.6 the *Legislation Guidelines* (2018 edition), which are maintained by the Legislation Design and Advisory Committee

### **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 under Standing Order 319.

### **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 to increase the underpayment rate for taxpayers, with the effective date of 10 May 2022, is estimated to result in net positive revenue of approximately \$7 million over the forecast period. The gross tax revenue increase of approximately \$31.5 million arising from an increase in the underpayment rate is offset by an increase

in expenditure for impairment of debt and debt write-off costs of approximately \$25 million. Revenue from the underpayment rate is impaired by 78.7% in the Crown accounts to reflect that most UOMI charged is never paid. These figures include the impact of the UOMI remission extension agreed by Cabinet on 14 March 2022.

16. This impact on appropriations is shown in the table below:

	\$ millions increase / (decrease)				
Vote Revenue Minister of Revenue	2021/22	2022/23	2023/24	2024/25	2025/26 & out years
Crown Revenue and Receipts: Tax Revenue	0.584	6.095	6.819	9.000	9.000
Non-Departmental Other Expense: Impairment of debt and debt write-offs (funded by Revenue Crown)	0.460	4.797	5.367	7.083	7.083
<b>Total Operating</b>	<b>(0.124)</b>	<b>(1.298)</b>	<b>(1.452)</b>	<b>(1.917)</b>	<b>(1.917)</b>

### Publicity

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

### Proactive Release

18. 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

19. 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 7.00% to 7.28%;
2. **agree** that the UOMI overpayment rate remain at 0%;
3. **agree** that the Taxation (Use of Money Interest Rates) Amendment Regulations 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 2022 come into force on 10 May 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:

	\$ millions increase / (decrease)				
Vote Revenue Minister of Revenue	2021/22	2022/23	2023/24	2024/25	2025/26 & out years
Crown Revenue and Receipts: Tax Revenue	0.584	6.095	6.819	9.000	9.000
Non-Departmental Other Expense: Impairment of debt and debt write-offs (funded by Revenue Crown)	0.460	4.797	5.367	7.083	7.083
<b>Total Operating</b>	<b>(0.124)</b>	<b>(1.298)</b>	<b>(1.452)</b>	<b>(1.917)</b>	<b>(1.917)</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. **authorise** the submission to the Executive Council of the Taxation (Use of Money Interest Rates) Amendment Regulations 2022.

Authorised for lodgement

Hon David Parker  
Minister of Revenue