



## POLICY AND REGULATORY STEWARDSHIP

**Tax policy report: Use of money interest rates review**

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|------------------------|-----------------|-----------------------|------------|
| <b>Date:</b>           | 27 October 2022 | <b>Priority:</b>      | Medium     |
| <b>Security level:</b> | In Confidence   | <b>Report number:</b> | IR2022/459 |

### Action sought

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|                     | <b>Action sought</b>   | <b>Deadline</b>  |
|---------------------|--|------------------|
| Minister of Revenue | <p><b>Agree</b> to adjust the use of money interest rates as set out in the report.</p> <p><b>Sign</b> and <b>refer</b> the attached paper to the Cabinet Office for consideration at the LEG meeting on 24 November 2022.</p> | 17 November 2022 |

### Contact for telephone discussion (if required)

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| <b>Name</b>   | <b>Position</b>          | <b>Telephone</b> |
|---------------|--------------------------|------------------|
| Paul Fulton   | Principal Policy Advisor | s 9(2)(a)        |
| Eugene Parker | Policy Advisor           | s 9(2)(a)        |

27 October 2022

Minister of Revenue

## **Use of money interest rates review**

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### **Purpose**

1. This report brings to your attention the outcome of the regular review of the use of money interest (UOMI) rates. It seeks your agreement to increasing 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,<sup>1</sup> 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 the tax compliance rules. By changing 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. 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 7.96%, while the overpayment rate is currently 1.22%, based on RBNZ figures from May 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 haven't been adjusted in the last 12 months.

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

**In Confidence**

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 is 15 January 2023. However, 15 January falls on a Sunday which makes 16 January 2023 the date that tax payable is due. Therefore, the increased UOMI rates start applying from the next day which is 17 January 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 percentage point). 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 from August 2022, both the floating first mortgage new customer housing rate and the 90-day bank bill rate have risen more than 100 basis points from their positions at May 2022, which triggers the UOMI rates to be reset.
12. The UOMI underpayment rate should be increased to 9.21%, while the UOMI overpayment rate should be increased to 2.31%.
13. The RBNZ floating first mortgage new customer rate has risen by 125 basis points since May 2022 (the last time the UOMI rates were set). Accordingly, the underpayment rate should be increased by 125 basis points, from 7.96% to 9.21%.
14. The RBNZ 90-day bank bill rate has risen by 109 basis points since May 2022. Accordingly, the overpayment rate should be increased from 1.22% to 2.31%.

**Fiscal Impact**

15. The change to the underpayment rate will increase revenue over the forecast period. At the same time, the increased overpayment rate will reduce revenue over the forecast period.

**In Confidence**

16. Overall, it is estimated that the net tax revenue impact will be negative, as the cost of increasing the overpayment rate is expected to exceed the revenue from increasing the underpayment rate.
17. The net tax revenue impact of the change, before impairments, is shown in the table below.

| <b>\$ millions increase / (decrease)</b>          |                |                |                |                |                               |
|---|----------------|----------------|----------------|----------------|-------------------------------|
| <b>Vote Revenue</b>                               | <b>2022/23</b> | <b>2023/24</b> | <b>2024/25</b> | <b>2025/26</b> | <b>2026/27 &amp; outyears</b> |
| Tax Revenue impact of change to Underpayment rate | 25.000         | 56.000         | 56.000         | 56.000         | 56.000                        |
| Tax Revenue impact of change to Overpayment rate  | (17.000)       | (37.000)       | (37.000)       | (37.000)       | (37.000)                      |
| <b>Net Tax Revenue Impact</b>                     | <b>8.000</b>   | <b>19.000</b>  | <b>19.000</b>  | <b>19.000</b>  | <b>19.000</b>                 |

18. However, a large part of underpayment debt is typically written off, meaning the cost to revenue is larger than the net revenue impact reported above. To represent this, underpayments are impaired in the Crown accounts to reflect that most UOMI charged is never paid and must be written off. Increasing the underpayment rate thus also increases impairment expenditure.
19. In previous UOMI rate changes, UOMI underpayment debt was impaired at a standard rate of 78.7%. This rate was intended to reflect the average repayment rate of all debt. However, since the approval of the last UOMI rates change (IR2022/347 refers), the methodology for calculating the impairment rate has been adjusted to reflect only the average repayment rate of *recent* debt. Taking this into account, the impairment rate used for this report has reduced to 67.63%, based on debt repayment for the year ending 30 June 2022. For future UOMI reviews this impairment rate will be updated in October each year.
20. The total fiscal impact and operating expenditure for the forecast period taking the new rate of impairment into account are presented below.

| <b>\$ millions increase / (decrease)</b>                                  |                    |                |                |                |                               |
|---|--------------------|----------------|----------------|----------------|-------------------------------|
| <b>Vote Revenue</b>   | <b>2022/23</b>     | <b>2023/24</b> | <b>2024/25</b> | <b>2025/26</b> | <b>2026/27 &amp; outyears</b> |
| Crown Revenue and Receipts:<br>Tax Revenue                                | 9.000 <sup>2</sup> | 19.000         | 19.000         | 19.000         | 19.000                        |
| Non-Departmental Other Expense:<br>Impairment of debt and debt write-offs | 17.000             | 38.000         | 38.000         | 38.000         | 38.000                        |
| <b>Total operating</b>  | <b>8.000</b>       | <b>19.000</b>  | <b>19.000</b>  | <b>19.000</b>  | <b>19.000</b>                 |

### Consultation

21. Inland Revenue has consulted with the Treasury, the Parliamentary Counsel Office (PCO), and the New Zealand Customs Service (Customs) on this report. They agree with the recommendations.
22. 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.
23. Since the previous rate change to 7.96% in 30 August 2022, Customs have collected \$14,964.73 in compensatory interest. If the compensatory interest rate had been 9.21%, they estimate they would have collected \$17,314.71 instead over that period, an increase of \$2,349.98. Customs also estimate that, over the next 12 months, they would collect \$170,807.27 in compensatory interest if the rate were to remain at 9.21%.<sup>3</sup>

### Next steps

24. Officials have advised PCO that a draft Order in Council changing the rates may need to be prepared depending on your decision.
25. Attached is a paper to the Cabinet Legislation Committee, recommending that it approve 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 17 November 2022. This would enable the Cabinet Legislation Committee to consider the paper on 24 November 2022.

<sup>2</sup> Note this figure differs from the table above due to rounding differences to ensure the table sums correctly.

<sup>3</sup> Note that this projected figure excludes compensatory interest that may be collected as a result of Customs' investigation and trade audit activities.

**Recommended action**

I recommend that you:

- a. **agree** to increase the UOMI underpayment rate to 9.21% (from 7.96%) and the UOMI overpayment rate to 2.31% (from 1.22%), effective from 17 January 2023.

Agreed/Not agreed

- b. **note** the following fiscal impacts arising from the decision to change the UOMI rates, with a corresponding impact on the operating balance and net core Crown debt:

| <b>\$ millions increase / (decrease)</b> |                |                |                |                |                               |
|--|----------------|----------------|----------------|----------------|-------------------------------|
| <b>Vote Revenue</b>                      | <b>2022/23</b> | <b>2023/24</b> | <b>2024/25</b> | <b>2025/26</b> | <b>2026/27 &amp; outyears</b> |
| Crown Revenue and Receipts:              |                |                |                |                |                               |
| Tax Revenue                              | 9.000          | 19.000         | 19.000         | 19.000         | 19.000                        |
| Non-Departmental Other Expense:          |                |                |                |                |                               |
| Impairment of debt and debt write-offs   | 17.000         | 38.000         | 38.000         | 38.000         | 38.000                        |
| <b>Total operating</b>                   | <b>8.000</b>   | <b>19.000</b>  | <b>19.000</b>  | <b>19.000</b>  | <b>19.000</b>                 |

Noted

- c. **note** that the fiscal impacts will be treated as a forecast change, and so will have no impact on allowances;

Noted

- d. **agree** that the proposed change to the *Impairment of Debt and Debt Write-offs* appropriation for 2022/23 above be included in the 2022/23 Supplementary Estimates and that, in the interim, the increase(s) be met from Imprest Supply;

Agreed/Not agreed

- e. **agree** that PCO draft an Order in Council to adjust the UOMI rates;


Agreed/Not agreed

**In Confidence**

- f. **approve** and **refer** the attached Cabinet paper to the Cabinet Office by 10am Thursday 17 November 2022 for consideration by Cabinet Legislation Committee at its meeting on 24 November 2022.

Agreed/Not agreed

s 9(2)(a)



Paul Fulton

**Principal Policy Advisor**

**Hon David Parker**

Minister of Revenue

/ /2022