

Hon David Parker, Minister of Revenue

Information Release

Taxation (Use of Money Interest Rates) Amendment Regulations (No 3) 2022

December 2022

Availability

This information release is available on Inland Revenue's tax policy website at <https://taxpolicy.ird.govt.nz/publications/2022/2022-ir-cab-leg-22-sub-0210>

Documents in this information release

#	Reference	Type	Title	Date
1	IR2022-459	Policy report	Use of money interest rates review	27 October 2022
2	LEG-22-SUB-0210	Cabinet paper	Taxation (Use of Money Interest Rates) Amendment Regulations (No 3) 2022	24 November 2022
3	LEG-22-MIN-0210	Minute	Taxation (Use of Money Interest Rates) Amendment Regulations (No 3) 2022	24 November 2022

Additional information

The Cabinet paper was considered by the Legislation Committee on 24 November 2022 and confirmed by Cabinet on 28 November 2022.

One attachment to the Cabinet paper is not included in this information release as it is publicly available:

- Order in Council: Taxation (Use of Money Interest Rates) Amendment Regulations (No 3) 2022¹

Information withheld

Some parts of this information release would not be appropriate to release and, if requested, would be withheld under the Official Information Act 1982 (the Act). Where this is the case, the relevant sections of the Act that would apply are identified. Where information is withheld, no public interest was identified that would outweigh the reasons for withholding it.

Sections of the Act under which information was withheld:

9(2)(a) to protect the privacy of natural persons, including deceased people

Accessibility

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¹ <https://www.legislation.govt.nz/regulation/public/2022/0315/7.0/whole.html>

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POLICY AND REGULATORY STEWARDSHIP

Tax policy report: Use of money interest rates review

Date:	27 October 2022	Priority:	Medium
Security level:	In Confidence	Report number:	IR2022/459

Action sought

	Action sought	Deadline
Minister of Revenue	<p>Agree to adjust the use of money interest rates as set out in the report.</p> <p>Sign and refer 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)

Name	Position	Telephone
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

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,¹ 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.

¹ 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.

\$ millions increase / (decrease)					
Vote Revenue	2022/23	2023/24	2024/25	2025/26	2026/27 & outyears
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)
Net Tax Revenue Impact	8.000	19.000	19.000	19.000	19.000

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.

\$ millions increase / (decrease)					
Vote Revenue	2022/23	2023/24	2024/25	2025/26	2026/27 & outyears
Crown Revenue and Receipts: Tax Revenue	9.000 ²	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
Total operating	8.000	19.000	19.000	19.000	19.000

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%.³

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.

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

³ 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:

\$ millions increase / (decrease)					
Vote Revenue	2022/23	2023/24	2024/25	2025/26	2026/27 & outyears
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
Total operating	8.000	19.000	19.000	19.000	19.000

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

In Confidence

Office of the Minister of Revenue

Chair, Cabinet Legislation Committee

TAXATION (USE OF MONEY INTEREST RATES) AMENDMENT REGULATIONS (NO 3) 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 9.21%, while the overpayment UOMI rate is set at 2.31%.

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, or, if this would produce a negative figure, at 0%. The RBNZ 90-day bank bill rate is the monthly average of the daily standard rates.
7. The current underpayment and overpayment rates are 7.96% and 1.22% respectively. The UOMI rates were last changed by Order in Council with effect from 30 August 2022 and were based on the interest rates for May 2022.
8. The RBNZ interest rates for August 2022 indicate that the 90-day bank bill rate has changed by 109 basis points since the rates were last adjusted. I consider that an

adjustment of the UOMI rates is necessary to avoid a long-term misalignment. I therefore recommend the overpayment rate be increased to 2.31%.

9. The floating first mortgage new customer housing rate has also changed by 125 basis points since the rates were last adjusted. Therefore, I also recommend that the underpayment rate be increased to 9.21%.

Timing

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 28 November 2022. In order to minimise compliance costs, it is proposed that the new rate comes into force on 17 January 2023, the day after the due date for the second standard instalment of provisional tax.

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 UOMI rates, with the effective date of 17 January 2023, is estimated to result in net negative revenue of approximately \$84 million over the forecast period. While the change to the underpayment rate will increase revenue over

the forecast period, the increased overpayment rate will reduce revenue over the forecast period at a greater rate.

16. The net tax revenue impact of the change is shown in the table below.

\$ millions increase / (decrease)					
Vote Revenue	2022/23	2023/24	2024/25	2025/26	2026/27 & outyears
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)
Net Tax Revenue Impact	8.000	19.000	19.000	19.000	19.000

17. 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.

18. Based on debt repayment for the year ending 30 June 2022, the impairment rate used for this paper is 67.63%. The total fiscal impact and operating expenditure for the forecast period taking this impairment into account are presented in the table below:

\$ millions increase / (decrease)					
Vote Revenue	2022/23	2023/24	2024/25	2025/26	2026/27 & outyears
Crown Revenue and Receipts:	9.000 ¹	19.000	19.000	19.000	19.000
Tax Revenue					
Non-Departmental Other Expense:	17.000	38.000	38.000	38.000	38.000
Impairment of debt and debt write-offs					
Total operating	8.000	19.000	19.000	19.000	19.000

Publicity

19. Inland Revenue will publish an item about these changes in the next available issue of its *Tax Information Bulletin*, the February 2023 issue. However, since the proposed changes will apply from 17 January 2023, a timelier notification method is required. Therefore, Inland Revenue will also publish a special report on the changes once the Order in Council has been made.

Proactive Release

20. 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

21. 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 7.96% to 9.21%.
2. **agree** that the UOMI overpayment rate increase from 1.22% to 2.31%.

¹ Note this figure differs from the table above due to rounding differences to ensure the table sums correctly.

3. **agree** that the Taxation (Use of Money Interest Rates) Amendment Regulations (No 3) 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 (No 3) 2022 come into force on 17 January 2023.
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	2022/23	2023/24	2024/25	2025/26	2026/27 & outyears
Crown Revenue and Receipts:	9.000	19.000	19.000	19.000	19.000
Tax Revenue					
Non-Departmental Other Expense:	17.000	38.000	38.000	38.000	38.000
Impairment of debt and debt write-offs					
Total operating	8.000	19.000	19.000	19.000	19.000

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. **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:
8. **authorise** the submission to the Executive Council of the Taxation (Use of Money Interest Rates) Amendment Regulations (No 3) 2022.

Authorised for lodgement

Hon David Parker
Minister of Revenue



Cabinet Legislation Committee

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Taxation (Use of Money Interest Rates) Amendment Regulations (No 3) 2022

Portfolio Revenue

On 24 November 2022, the Cabinet Legislation Committee:

- 1 **agreed** that the underpayment use of money interest (UOMI) underpayment rate increase from 7.96 percent to 9.21 percent;
- 2 **agreed** that the UOMI overpayment rate increase from 1.22 percent to 2.31 percent;
- 3 **agreed** that the Taxation (Use of Money Interest Rates) Amendment Regulations (No 3) 2022 give effect to the rates referred to in paragraphs 1 and 2 above;
- 4 **agreed** that the Taxation (Use of Money Interest Rates) Amendment Regulations (No 3) 2022 come into force on 17 January 2023;
- 5 **noted** the following changes as a result of the decision in paragraphs 1 and 2 above, with a corresponding impact on the operating balance:

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

- 6 **approved** the forecast change in appropriations for Non-Departmental Other Expenses set out in paragraph 5, as a result of the decision in paragraphs 1 and 2, with a corresponding impact on the operating balance;
- 7 **agreed** that the 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;
- 8 **authorised** the submission to the Executive Council of the Taxation (Use of Money Interest Rates) Amendment Regulations (No 3) 2022 [PCO 25126/2.0].

Rebecca Davies
Committee Secretary

Present:

Hon Chris Hipkins (Chair)
Hon Carmel Sepuloni
Hon Poto Williams
Hon Jan Tinetti
Hon Michael Wood
Hon Dr David Clark
Hon Kieran McAnulty
Dr Duncan Webb, MP

Officials present from:

Office of the Prime Minister
Officials Committee for LEG