



Inland Revenue
Te Tari Taake

POLICY AND REGULATORY STEWARDSHIP

Tax policy report: Tax Administration (January Cyclone Event) Order 2023

Date:	17 January 2023	Priority:	High
Security level:	In Confidence	Report number:	IR2023/012

Action sought

	Action sought	Deadline
Minister of Revenue	Approve and lodge the attached paper to Cabinet office	10am, Thursday 19 January 2023

Contact for telephone discussion (if required)

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

17 January 2023

Minister of Revenue

Tax Administration (January Cyclone Event) Order 2023

1. This report recommends you approve and lodge the attached paper to Cabinet approving an Order in Council (the Order) to remit interest as a tax relief measure for taxpayers affected by the flooding and weather-related damage experienced in parts of the North Island between 8 and 12 January 2023 as a result of Cyclone Hale. The Order would declare the recent cyclone event as an emergency event for the purposes of the Inland Revenue Acts.¹
2. The Order would permit Inland Revenue to remit use of money interest (UOMI) charged on the late payment of tax. The current rate of UOMI on underpayments of tax is now 9.21% (from 17 January 2023).
3. We also recommend that the proposal be submitted directly to Cabinet to ensure the relief is timely for those affected taxpayers.
4. The Order would give Inland Revenue flexibility to allow affected taxpayers to pay their tax obligations on a later date without incurring UOMI.

Background

5. Cyclone Hale made landfall in the upper North Island on 8 January 2023. It brought periods of high intensity, and in some places sustained, rain and winds across much of the North Island, and the top of the South Island, before moving offshore on 12 January 2023.
6. Northland, Coromandel, Gisborne, Hawke's Bay (Wairoa), and coastal Wairarapa areas were particularly hit by heavy rain, with the result that some communities lost power, telecommunications, and essential road access. A state of emergency was declared for Gisborne. Other areas of the North Island, such as Auckland, Taranaki, and Marlborough were also affected but did not sustain material damage to key infrastructure.
7. The Minister for Rural Communities has declared a medium-scale adverse event for Gisborne and the Wairarapa districts. We note that areas affected by Cyclone Hale, such as Northland and Wairoa, are under coverage of earlier medium-scale declarations for events in 2022.²

Impact of Cyclone Hale on taxpayers

8. The level of disruption resulting from Cyclone Hale has, or will, significantly adversely affect the ability of some taxpayers to estimate provisional tax or to make a required payment of tax before its due date. As a result of Cyclone Hale, taxpayers (rural and non-rural) in Northland, Coromandel, Gisborne, Wairarapa, and Wairoa need to focus on the immediate effects of this event rather than their tax affairs. Following Inland Revenue's Business Transformation, taxpayers are encouraged to file returns and make payments electronically. This places a greater reliance on power and telecommunications and it is therefore that relief to be provided to

¹ An emergency event for the purpose of the Inland Revenue Acts is different from an emergency event declared under the Civil Defence Emergency Management Framework. The Order discussed in this report deals with provision of tax relief for taxpayers affected by Cyclone Hale between 8 and 12 January 2023.

² A medium-scale adverse event declared in March 2022 for Gisborne and Wairoa. A medium scale adverse event was also declared in August 2022 for the Far North and Top of the South Island.

In Confidence

taxpayers when these services are disrupted as a result of flooding or other weather-related damage.

9. There are several key tax payment dates in January. GST returns and payments, as well as provisional tax instalments were required by 16 January. PAYE payments are due by 20 January. Late payment of these tax types results in UOMI being automatically imposed. The number of taxpayers affected by the flooding is not yet known.
10. Relief from late payment and late filing penalties is already available for taxpayers affected by Cyclone Hale. However, this relief does not extend to the remission of UOMI charged to compensate the Crown for the loss of the use of revenue. This is because the remission of UOMI requires a higher threshold, such as a natural disaster, as well as Cabinet approval before UOMI relief can be provided.

Order in Council: Tax Administration (January Cyclone Event) Order 2023

11. The Tax Administration Act 1994³ provides for the making of an Order in Council to allow Inland Revenue to remit UOMI when:
 - 11.1 an emergency event has, or will, significantly adversely affect a taxpayer's ability to pay an amount of tax on time, or make an accurate forecast of provisional tax;
 - 11.2 this non-payment results in the imposition of UOMI; and
 - 11.3 the taxpayer is a member of a class of persons eligible for remission of UOMI, if the Order in Council declaring the emergency event describes such a class of persons.
12. The disruption caused by Cyclone Hale meets the criteria for remission. The Order would allow Inland Revenue to remit UOMI incurred by taxpayers whose ability to pay their tax on time, and/or accurately forecast provisional tax, was significantly adversely affected by the flooding and other weather-related damage.
13. For the purposes of the Order, the emergency event is defined as the floods and other damage that occurred in Northland, Coromandel, Gisborne, Wairarapa, and Wairoa districts as a result of Cyclone Hale, which crossed the North Island of New Zealand starting 8 January and ending 12 January 2023. Although the event definition includes some lesser affected areas, we recommend defining the area widely, as taxpayers in some areas are still experiencing the cumulative effects of adverse weather events occurring in the latter part of 2022. Our reasons for the districts covered by the Order are set out below:

³ Section 183ABA refers.

District	Reason
Coromandel	Inland Revenue considers that there will be taxpayers who will be significantly adversely affected because of the cyclone's impact on tourism and supporting industries and will be unable to make an accurate forecast of provisional tax. We also note that key infrastructure such as roads and communications are potentially at ongoing risk.
Gisborne	A medium-scale adverse event has been declared for this district.
Northland	This district is still recovering from a medium-scale adverse event from 2022. Federated Farmers advises that the area is under severe economic stress. They note that while conditions before Cyclone Hale have been ideal for growing, the effect of the heavy rain has affected (destroyed) some yields with a corresponding effect on farmer cash flows. We understand that fruit and vegetable crops have been significantly affected. As such we consider that there will be taxpayers who will be materially affected and unable to make an accurate forecast of provisional tax.
Wairoa	This district is still recovering from a medium-scale adverse event from 2022. Cyclone Hale disrupted communications and power in the area.
Wairarapa	A medium-scale adverse event has been declared for this district.

14. 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 resources. The practical effect of UOMI remission is that it allows affected taxpayers covered by the scope of the Order to focus on recovering from the event rather than on their tax affairs.
15. The Order will expire on 31 March 2023. Tax debts that remain unpaid from PAYE, GST or provisional tax obligations would incur interest from 1 April 2023.

Other tax relief for taxpayers

16. Under existing administrative powers, Inland Revenue is offering relief from late payment and late filing penalties for taxpayers affected by the Cyclone Hale. Farmers with income equalisation accounts who have been affected by flooding in Gisborne and the Wairarapa are able to make late deposits and/or early withdrawals.
17. 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.
18. Changes made in 2021 which give favourable treatment to donated trading stock will also be of assistance to support recovery in affected districts.
19. Inland Revenue will take a considered, but sympathetic, approach to taxpayers that have been affected by localised flooding and damage from Cyclone Hale but are outside the areas specified in the Order.

Administrative implications

20. We have not noticed an increase in taxpayer contacts requesting relief as a result of being affected by the recent weather events. However, experience suggests that taxpayers in these types of circumstances often do not turn their minds to their tax obligations until after other priority tasks have been attended to.
21. The Order does not have any implications for Inland Revenue's technology systems.

Revenue implications

22. The baseline forecasts do not include the emergency event, nor the potential UOMI charges should the event trigger additional debt. Remission of UOMI for significantly adversely affected taxpayers in the covered districts, will not affect existing fiscal baselines.

Consultation

23. Our advice has been informed by advice from the Ministry for Primary Industries. The Treasury has been consulted as part of the preparation of this report. The Department of the Prime Minister and Cabinet has been informed.
24. We have consulted with Federated Farmers New Zealand. They support the proposed interest remission relief for the affected districts. Chartered Accountants Australia and New Zealand has also been informed.

Next steps

25. If you agree to the recommendations in this report, we recommend you approve and lodge the attached paper to Cabinet for its meeting on 25 January 2023. For the paper to be considered at that meeting, it will need to be lodged with Cabinet Office by 10am, Thursday 19 January 2023.
26. A copy of this report and attached Cabinet paper should be referred to the Minister of Finance, and the Minister for Rural Communities, for their information.

Recommended action

We recommend that you:


- (a) **Approve** and **lodge** the attached paper to Cabinet on or before 10am, Thursday 19 January 2023, for a meeting on 25 January 2023.

Approved and lodged/Not approved

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

Referred/Not referred

s 9(2)(a)



Brandon Sloan

Principal Policy Advisor
Policy and Regulatory Stewardship

Hon David Parker

Minister of Revenue
/ /2023