

# Hon David Parker, Minister of Revenue

## Information Release

### Taxation (Use of Money Interest Rates) Amendment Regulations 2023

April 2023

#### Availability

This information release is available on Inland Revenue's tax policy website at <https://taxpolicy.ird.govt.nz/publications/2023/2023-ir-cab-leg-23-sub-0014>

#### Documents in this information release

#	Reference	Type	Title	Date
1	IR2023/003	Policy report	Use of money interest rates review	26 January 2023
2	LEG-23-SUB-0014	Cabinet paper	Taxation (Use of Money Interest Rates) Amendment Regulations 2023	9 March 2023
3	LEG-23-MIN-0014	Minute	Taxation (Use of Money Interest Rates) Amendment Regulations 2023	9 March 2023

#### Additional information

The Cabinet paper was considered by the Legislation Committee on 9 March 2023 and confirmed by Cabinet on 13 March 2023.

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 2023<sup>1</sup>

#### 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.

Section 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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<sup>1</sup> <https://www.legislation.govt.nz/regulation/public/2023/0028/8.0/whole.html#LMS820068>

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## POLICY AND REGULATORY STEWARDSHIP

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

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<b>Date:</b>	26 January 2023	<b>Priority:</b>	Medium
<b>Security level:</b>	In Confidence	<b>Report number:</b>	IR2023/003

### Action sought

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	<b>Action sought</b>	<b>Deadline</b>
Minister of Finance	<b>Agree</b> to adjust the use of money interest rates as set out in the report.	02 February 2023
Minister of Revenue	<b>Agree</b> to adjust the use of money interest rates as set out in the report. <b>Sign</b> and <b>refer</b> the attached paper to the Cabinet Office for consideration at the LEG meeting on 23 February 2022.	02 February 2023

### 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)
Mila Maxon	Policy Advisor	s 9(2)(a)

26 January 2023

Minister of Finance  
Minister of Revenue

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

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### **Purpose**

1. This report discusses the outcome of the regular review of the use of money interest (UOMI) rates. It seeks your agreement to increase 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 9.21%, while the overpayment rate is currently 2.31%, based on RBNZ figures from August 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.

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, in this case, is 7 May 2023. However, 7 May 2023 falls on a Sunday which makes 8 May 2023 the date that tax payable is due. Therefore, the increased UOMI rates should apply from the next day which is 9 May 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 December 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 August 2022, which triggers the UOMI rates to be reset.
12. The UOMI underpayment rate should be increased to 10.39%, while the UOMI overpayment rate should be increased to 3.53%.
13. The RBNZ floating first mortgage new customer rate has risen by 118 basis points since August 2022 (the last time the UOMI rates were set). Accordingly, the underpayment rate should be increased by 118 basis points, from 9.21% to 10.39%.
14. The RBNZ 90-day bank bill rate has risen by 122 basis points since August 2022. Accordingly, the overpayment rate should be increased from 2.31% to 3.53%.

### **Fiscal Impact**

15. UOMI applies to both overpayments and underpayments of tax. More is charged by the Commissioner on underpayments than is paid to the taxpayer on overpayments.

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However, the charges to underpayments are impaired in the Crown accounts to reflect that most UOMI charged is never paid, and therefore must be written-off. This means that an increase in the underpayment rate also produces an increase in impairment expenditure. The rate of impairment reflects the average repayment rate of recent debt, updated in October each year. The impairment rate for the year ended 30 June 2022 is 67.63%.

16. The full year net saving for the 2022/23 fiscal year is estimated to be \$1 million, and \$3 million per annum for 2023/24 and later years. These savings comprise a revenue increase of \$6 million in 2022/23 and \$38 million per annum for 2023/24 and later years, and an increase in impairment expenditure of \$5 million in 2022/23 and \$35 million per annum for 2023/24 and later years. This is shown in the following tables:

\$ millions increase / (decrease)					
Vote Revenue Minister of Revenue	2022/23	2023/24	2024/25	2025/26	2026/27 & outyears
Crown Revenue and Receipts:					
Tax revenue	6.000	38.000	38.000	38.000	38.000
Total Operating	(6.000)	(38.000)	(38.000)	(38.000)	(38.000)

\$ millions increase / (decrease)					
Vote Revenue Minister of Revenue	2022/23	2023/24	2024/25	2025/26	2026/27 & outyears
Non-Departmental Other Expenses:					
Impairment of debt and bad debt write- offs	5.000	35.000	35.000	35.000	35.000
Total Operating	5.000	35.000	35.000	35.000	35.000

**Consultation**

17. Inland Revenue has consulted with the Treasury and the New Zealand Customs Service (Customs) on this report. They agree with the recommendations.
18. 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.
19. Since the rate change to 7.96% on 30 August 2022, Customs have collected \$116,516.44 in compensatory interest.<sup>2</sup> If the compensatory interest rate had been 10.39%, they estimate they would have collected \$152,086.16 instead over that period, an increase of \$35,569.72. Customs also estimate that, over the next 12

<sup>2</sup> As the 9.21% rate only came into effect on 17 January 2023, Customs provided data from the rate change prior to that.

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months, they would collect \$375,077.35 in compensatory interest if the rate were set at 10.39%.<sup>3</sup>

20. Customs note that in the last quarter there were more transactions with compensatory interest than expected and some were of high value.

**Next steps**

21. Officials have advised PCO that a draft Order in Council changing the rates may need to be prepared depending on your decision.
22. 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 16 February 2023. This would enable the Cabinet Legislation Committee to consider the paper on 23 February 2023.

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<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:

<b>Recommendations</b>	<b>Minister of Finance</b>	<b>Minster of Revenue</b>			
a) <b>agree</b> to increase the UOMI underpayment rate to 10.39% (from 9.21%) and the UOMI overpayment rate to 3.53% (from 2.31%), effective from 9 May 2023.	Agreed  Not agreed	Agreed  Not agreed			
b) <b>note</b> the following changes as a result of the decision in recommendation (a) above, with a corresponding impact on the operating balance:	Noted	Noted			
\$ millions increase / (decrease)					
Vote Revenue Minister of Revenue	2022/23	2023/24	2024/25	2025/26	2026/27 & outyears
Crown Revenue and Receipts: Tax revenue	6.000	38.000	38.000	38.000	38.000
Total Operating	(6.000)	(38.000)	(38.000)	(38.000)	(38.000)
c) <b>approve</b> the following forecast change in appropriations for Non-Departmental Other Expense as a result of the decision in recommendation (a) above, with a corresponding impact on the operating balance:	Approved  Not approved	Approved  Not approved			
\$ millions increase / (decrease)					
Vote Revenue Minister of Revenue	2022/23	2023/24	2024/25	2025/26	2026/27 & outyears
Non-Departmental Other Expenses: Impairment of debt and bad debt write-offs	5.000	35.000	35.000	35.000	35.000
Total Operating	5.000	35.000	35.000	35.000	35.000
d) <b>note</b> that the fiscal impacts will be treated as a forecast change, and so will have no impact on allowances.	Noted	Noted			
e) <b>agree</b> that the proposed change to the <i>Impairment of Debt and Debt Write-offs</i> 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	Agreed  Not agreed			



<b>Recommendations</b>	<b>Minister of Finance</b>	<b>Minster of Revenue</b>
f) <b>agree</b> that PCO draft an Order in Council to adjust the UOMI rates.	Agreed  Not agreed	Agreed  Not agreed
g) <b>approve</b> and <b>refer</b> the attached Cabinet paper to the Cabinet Office by 10am Thursday 16 February 2023 for consideration by Cabinet Legislation Committee at its meeting on 23 February 2023.	N/A	Approved  Not approved

s 9(2)(a)

**Paul Fulton**

Principal Policy Advisor

**Hon Grant Robertson**

Minister of Finance

/ /2023

**Hon David Parker**

Minister of Revenue

/ /2023



In Confidence

Office of the Minister of Revenue

Chair, Cabinet Legislation Committee

## **TAXATION (USE OF MONEY INTEREST RATES) AMENDMENT REGULATIONS 2023**

### **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 10.39%, while the overpayment UOMI rate is set at 3.53%.

### **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 9.21% and 2.31% respectively. The UOMI rates were last changed by Order in Council with effect from 17 January 2023 and were based on the interest rates for August 2022.
- 8 The RBNZ interest rates for December 2022 indicate that the 90-day bank bill rate has changed by 122 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 3.53%.
- 9 The floating first mortgage new customer housing rate has also changed by 118 basis points since the rates were last adjusted. Therefore, I also recommend that the underpayment rate be increased to 10.39%.

### 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 23 February 2023. In order to minimise compliance costs, it is proposed that the new rate comes into force on 9 May 2023, the day after the due date for the third 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  | Not applicable |
| 11.2 | the New Zealand Bill of Rights Act 1990   | Not applicable |
| 11.3 | the Human Rights Act 1993   | Not applicable |
| 11.4 | the principles and guidelines set out in the Privacy Act 1993   | Not applicable |
| 11.5 | relevant international standards and obligations  | Not applicable |
| 11.6 | the <i>Legislation Guidelines</i> (2018 edition), which are maintained by the Legislation Design and Advisory Committee | Complies       |

### 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 9 May 2023, is estimated to result in net positive revenue of approximately \$13 million over the forecast period. This number comprises the impact of the changes on tax revenue and on impairment expenditure.
- 16 The forecast net tax revenue impact of the increased revenue from the underpayment adjustment and the increased cost of the overpayment adjustment is shown in the table below.

\$ millions increase / (decrease)					
Vote Revenue Minister of Revenue	2022/23	2023/24	2024/25	2025/26	2026/27 & outyears
Crown Revenue and Receipts:					
Tax revenue	6.000	38.000	38.000	38.000	38.000
Total Operating	(6.000)	(38.000)	(38.000)	(38.000)	(38.000)

- 17 However, as a large part of underpayment debt is typically written off, there is a larger cost to revenue than is factored above. To represent estimated write-offs, underpayments are impaired in the Crown accounts. The impairment rate of 67.63% is based on debt repayment rates for the year ending 30 June 2022. Forecast impairment expenditure is presented in the table below:

\$ millions increase / (decrease)					
Vote Revenue Minister of Revenue	2022/23	2023/24	2024/25	2025/26	2026/27 & outyears
Non-Departmental Other Expenses: Impairment of debt and bad debt write-offs	5.000	35.000	35.000	35.000	35.000
Total Operating	5.000	35.000	35.000	35.000	35.000

**Publicity**

18 Inland Revenue will publish an item about these changes in the next available issue of its *Tax Information Bulletin*.

**Proactive Release**

19 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**

20 The Treasury and the New Zealand Customs Service 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 9.21% to 10.39%;
- 2 **agree** that the UOMI overpayment rate increase from 2.31% to 3.53%;
- 3 **agree** that the Taxation (Use of Money Interest Rates) Amendment Regulations 2023 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 2023 come into force on 9 May 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 Minister of Revenue	2022/23	2023/24	2024/25	2025/26	2026/27 & outyears
Crown Revenue and Receipts:					
Tax revenue	6.000	38.000	38.000	38.000	38.000
Total Operating	(6.000)	(38.000)	(38.000)	(38.000)	(38.000)

- 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:

\$ millions increase / (decrease)					
Vote Revenue Minister of Revenue	2022/23	2023/24	2024/25	2025/26	2026/27 & outyears
Non-Departmental Other Expenses:					
Impairment of debt and bad debt write-offs	5.000	35.000	35.000	35.000	35.000
Total Operating	5.000	35.000	35.000	35.000	35.000

- 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 2023.

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 2023

#### Portfolio Revenue

On 9 March 2023, the Cabinet Legislation Committee:

- 1 **agreed** that the use of money interest underpayment rate increase from 9.21% to 10.39%;
- 2 **agreed** that the use of money interest overpayment rate increase from 2.31% to 3.53%;
- 3 **noted** that the Taxation (Use of Money Interest Rates) Amendment Regulations 2023 (the Regulations) give effect to the rates referred to in paragraphs 1 and 2 above;
- 4 **noted** the following changes as a result of the decision in paragraphs 1 and 2 above, with a corresponding impact on the operating balance:

<b>\$ millions increase / (decrease)</b>					
<b>Vote Revenue Minister of Revenue</b>	2022/23	2023/24	2024/25	2025/26	2026/27 & outyears
<b>Crown Revenue and Receipts:</b>					
<b>Tax revenue</b>	6.000	38.000	38.000	38.000	38.000
<b>Total Operating</b>	(6.000)	(38.000)	(38.000)	(38.000)	(38.000)

5 **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:

<b>\$ millions increase / (decrease)</b>					
<b>Vote Revenue Minister of Revenue</b>	2022/23	2023/24	2024/25	2025/26	2026/27 & outyears
<b>Non-Departmental Other Expenses: Impairment of debt and bad debt write-offs</b>	5.000	35.000	35.000	35.000	35.000
<b>Total Operating</b>	5.000	35.000	35.000	35.000	35.000

6 **agreed** 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 be met from Imprest Supply;

7 **authorised** the submission to the Executive Council of the Taxation (Use of Money Interest Rates) Amendment Regulations 2023 [PCO 25277/3.0];

8 **noted** that the Regulations come into force on 9 May 2023.

Rebecca Davies  
Committee Secretary

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**Present:**

Hon Grant Robertson (Chair)  
Hon Andrew Little  
Hon David Parker  
Hon Kieran McAnulty  
Hon Dr Duncan Webb  
Hon Willow-Jean Prime  
Tangi Utikere, MP

**Officials present from:**

Office of the Prime Minister  
Officials Committee for LEG