

# Supplementary Departmental Disclosure Statement

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Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Bill
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A supplementary departmental disclosure statement for a Bill the government is proposing to amend seeks to bring together in one place a range of information to support and enhance the Parliamentary and public scrutiny of that Bill in amended form.

It highlights material changes to previous disclosures relating to:

- the general policy intent of the Bill and other background policy material;
- some of the key quality assurance products and processes used to develop and test the content of the Bill;
- the presence of certain significant powers or features in the Bill that might be of particular Parliamentary or public interest and warrant an explanation.

The original disclosure statement for the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Bill, dated 28 May 2020, can be found at <http://disclosure.legislation.govt.nz/bill/government/2020/273/>

This supplementary disclosure statement was prepared by the Inland Revenue Department.

The Inland Revenue Department certifies that, to the best of its knowledge and understanding, the information provided is complete and accurate at the date of finalisation below.

12 June 2020.

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## **The Main Areas of Change to the Original Disclosures**

This is a supplementary disclosure statement for the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Bill.

A supplementary disclosure statement supplements the original disclosure statement for the Bill by reporting the additions and changes that would need to be made to the original disclosure statement to accurately reflect the Bill with the proposed government amendments incorporated.

The main areas of change to the original disclosure statement are the addition of two new proposals on:

- the administration of unclaimed money; and
- the individual income tax write-off threshold.

## Part One: General Policy Statement

This Supplementary Order Paper proposes amendments to the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Bill.

Unclaimed money generally refers to money which has been abandoned by its owner. A common example is a bank deposit which has remained untouched in an account for a period of years. Under the Unclaimed Money Act 1971, an amount which is left for either 6 or 25 years (depending on the product category) will become “unclaimed money” (UCM) within the meaning of the Act.

However, the Act has not been reviewed since its enactment in 1971. As a result, many of the processes within the Act reflect the administrative practice of the 1970s and do not take advantage of new developments in technology. The UCM regime is largely administered as a stand-alone product using a paper-based process.

Inland Revenue’s Business Transformation (BT) programme provides an opportunity to review the administration of the UCM regime and to modernise its administration. This would reduce compliance costs for holders of UCM. The objectives of the proposals are to:

- modernise and update the Act to take advantage of new administrative practice;
- reduce compliance costs for holders and owners of UCM;
- reduce administrative costs for IR; and
- increase the likelihood of owners of UCM being reunited with their money (and more rapidly than is presently the case).

This Supplementary Order Paper also provides for a temporary increase to the individual income tax write-off threshold for automatically calculated assessments which is designed to assist taxpayers as part of the Government’s response to the COVID-19 situation.

### Departmental disclosure statement

The Inland Revenue Department is required to prepare a disclosure statement to assist with the scrutiny of this Supplementary Order Paper. The disclosure statement provides access to information about any material policy changes to the Bill and identifies any new significant or unusual legislative features of the Bill as amended.

A copy of the statement can be found at <http://disclosure.legislation.govt.nz/sop/government/2020/>.

### Regulatory impact assessment

The Inland Revenue Department produced a regulatory impact assessment on 24 April 2020 to help inform the new policy decisions taken by the Government relating to the changes to the unclaimed money regime made by the contents of this SOP.

A copy of this regulatory impact assessment can be found at—

- <https://taxpolicy.ird.govt.nz/publications/type/regulatory-impact-assessment>
- <https://treasury.govt.nz/publications/legislation/regulatory-impact-assessments>

## Part Two: Background Material and Policy Information

### Published reviews or evaluations

<b>2.1. Are there any publicly available inquiry, review or evaluation reports that have informed, or are relevant to, the policy to be given effect by this Bill?</b>	<b>YES</b>
A supplementary commentary on the Bill covering the additional policy proposals in the Supplementary Order Paper is available at <a href="https://taxpolicy.ird.govt.nz/publications/2020-commentary-arferm-bill-supplementary/overview">https://taxpolicy.ird.govt.nz/publications/2020-commentary-arferm-bill-supplementary/overview</a> The supplementary commentary provides a more detailed explanation of the proposed legislative changes in the Supplementary Order Paper.	

### Relevant international treaties

<b>2.2. Does this Bill seek to give effect to New Zealand action in relation to an international treaty?</b>	<b>NO</b>
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### Regulatory impact analysis

<b>2.3. Were any regulatory impact statements provided to inform the policy decisions that led to this Bill?</b>	<b>YES</b>
A regulatory impact assessment was prepared for the unclaimed money proposals in the Supplementary Order Paper and is available at <a href="https://taxpolicy.ird.govt.nz/publications/type/regulatory-impact-assessment">https://taxpolicy.ird.govt.nz/publications/type/regulatory-impact-assessment</a> and <a href="https://treasury.govt.nz/publications/legislation/regulatory-impact-assessments">https://treasury.govt.nz/publications/legislation/regulatory-impact-assessments</a> : <ul style="list-style-type: none"><li>• <i>Review of Unclaimed Money Act</i>, Inland Revenue, 24 April 2020.</li></ul> The auto-calculation write-off threshold proposal is exempt from the RIA requirements, as the proposed change results in little or no change to the status quo legislative position.	

<b>2.3.1. If so, did the RIA Team in the Treasury provide an independent opinion on the quality of any of these regulatory impact statements?</b>	<b>NO</b>
The regulatory impact statements for this Supplementary Order Paper did not meet the threshold for requiring an independent opinion on their quality from the Treasury's Regulatory Quality Team. In addition, the proposals did not present additional fiscal costs.	

<b>2.3.2. Are there aspects of the policy to be given effect by this Bill that were not addressed by, or that now vary materially from, the policy options analysed in these regulatory impact statements?</b>	<b>NO</b>
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### Extent of impact analysis available

<b>2.4. Has further impact analysis become available for any aspects of the policy to be given effect by this Bill?</b>	<b>NO</b>
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<b>2.5. For the policy to be given effect by this Bill, is there analysis available on:</b>	
<b>(a) the size of the potential costs and benefits?</b>	<b>YES</b>
<b>(b) the potential for any group of persons to suffer a substantial unavoidable loss of income or wealth?</b>	<b>NO</b>
<p>These documents provide an analysis of the size of the potential costs and benefits for the policy items included in the Supplementary Order Paper:</p> <ul style="list-style-type: none"> <li>Regulatory impact assessment <i>Review of Unclaimed Money Act</i>, Inland Revenue, 24 April 2020, available at <a href="https://taxpolicy.ird.govt.nz/publications/2020-ria-unclaimed-money/overview">https://taxpolicy.ird.govt.nz/publications/2020-ria-unclaimed-money/overview</a></li> <li>Cabinet paper <i>LEG-20-SUB-0065 – Tax Administration (Write Off Amount) Order 2020</i> and tax policy report <i>IR2020/204: Raising the automatic write-off threshold for qualifying individuals from \$50 to \$200</i>, Inland Revenue, 30 April 2020. Will be proactively released.</li> </ul>	

<b>2.6. For the policy to be given effect by this Bill, are the potential costs or benefits likely to be affected by:</b>	
<b>(a) the level of effective compliance or non-compliance with applicable obligations or standards?</b>	<b>NO</b>
<b>(b) the nature and level of regulator effort put into encouraging or securing compliance?</b>	<b>NO</b>
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## Part Three: Testing of Legislative Content

### Consistency with New Zealand's international obligations

<b>3.1. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with New Zealand's international obligations?</b>
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Unless it has been specifically identified in the development of the policy that there may be relevant international obligations, there have been no formal steps to determine whether the policy to be given effect by this Bill is consistent with New Zealand's international obligations.
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### Consistency with the government's Treaty of Waitangi obligations

<b>3.2. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with the principles of the Treaty of Waitangi?</b>
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Unless it has been identified in the development of the policy that there may be implications for the rights and interests of Māori protected by the Treaty of Waitangi, no formal steps have been taken to determine whether the policy to be given effect by this Supplementary Order Paper is consistent with the principles of the Treaty of Waitangi.
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Under the generic tax policy process, there is focus on consultation (both with Māori and non-Māori interested parties) during the development of the relevant policy measures contained in the Supplementary Order Paper. This is directly in line with the "duty to consult" principle of the Treaty of Waitangi.
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### Consistency with the New Zealand Bill of Rights Act 1990

<b>3.3. Has advice been provided to the Attorney-General on whether any provisions of this Bill appear to limit any of the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990?</b>	<b>NO</b>
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No advice has been provided to the Attorney-General on this Supplementary Order Paper. Advice provided on the original Bill can be accessed on the Ministry of Justice's website at <a href="https://www.justice.govt.nz/justice-sector-policy/constitutional-issues-and-human-rights/">https://www.justice.govt.nz/justice-sector-policy/constitutional-issues-and-human-rights/</a>
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## Offences, penalties and court jurisdictions

<b>3.4. Does this Bill create, amend, or remove:</b>	
<b>(a) offences or penalties (including infringement offences or penalties and civil pecuniary penalty regimes)?</b>	<b>YES</b>
<b>(b) the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal)?</b>	<b>NO</b>
<p>The Supplementary Order Paper to the Bill will repeal section 13 of the Unclaimed Money Act 1971. Section 13 is comprised of two subsections, as follows:</p> <ul style="list-style-type: none"> <li>• Section 13(a) makes it an offence for a holder of unclaimed money to fail to: <ul style="list-style-type: none"> <li>– keep a register of unclaimed money;</li> <li>– notify the Commissioner of Inland Revenue and unclaimed money owners of entries in the holder's register of unclaimed money;</li> <li>– transfer unclaimed money to the Commissioner;</li> <li>– comply with a condition of an exemption granted by the Commissioner for the requirements above.</li> </ul> </li> <li>• Section 13(b) makes it an offence for a director, manager, secretary or other officer of the holder who authorises or permits a failure to comply</li> </ul> <p>As the requirement to hold a register will be removed under the current proposals, the need for a section making a failure to hold a register can similarly be repealed.</p>	

<b>3.4.1. Was the Ministry of Justice consulted about these provisions?</b>	<b>NO</b>
The proposals do not have any implications for the Ministry of Justice.	

## Privacy issues

<b>3.5. Does this Bill create, amend or remove any provisions relating to the collection, storage, access to, correction of, use or disclosure of personal information?</b>	<b>YES</b>
<p>Section 6 of the Act requires holders of unclaimed money to maintain a register of unclaimed money, and to make this register available to the public for inspection. The Supplementary Order Paper repeals this requirement, with the intention of preserving the privacy of owners of unclaimed money.</p> <p>The Supplementary Order Paper allows unclaimed money holders to provide Inland Revenue with any relevant information relating to the owners of unclaimed money to assist Inland Revenue in locating the owners of the unclaimed money. Additionally, the Supplementary Order allows Inland Revenue to use existing tax information to assist in matching owners of unclaimed money with their money.</p>	

<b>3.5.1. Was the Privacy Commissioner consulted about these provisions?</b>	<b>YES</b>
The Office of the Privacy Commissioner was consulted on, and agreed, to the proposals included in the Supplementary Order Paper.	



## External consultation

3.6. Has there been any external consultation on the policy to be given effect by this Bill, or on a draft of this Bill?	YES
<p>Inland Revenue officials released a tax policy consultation document <i>Unclaimed money</i> in January 2020 for public consultation. Submissions were received from a range of individuals and groups, including the New Zealand Law Society, Chartered Accountants Australia and New Zealand, and the New Zealand Bankers' Association.</p> <p>Consultation on the auto-calculation write-off threshold increase was also held, with feedback received from Chartered Accountants Australia and New Zealand and the National Beneficiary Advocacy Consultation Group.</p>	

## Other testing of proposals

3.7. Have the policy details to be given effect by this Bill been otherwise tested or assessed in any way to ensure the Bill's provisions are workable and complete?	NO
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## Part Four: Significant Legislative Features

### Compulsory acquisition of private property

<b>4.1. Does this Bill contain any provisions that could result in the compulsory acquisition of private property?</b>	<b>YES</b>
<p>The Supplementary Order Paper places a limitation period of 60 years on the ability of a claimant to claim unclaimed money. While this removes a property right, it also reflects the reality that the likelihood of unclaimed money being claimed decreases as time passes. Furthermore, it is impractical for the Crown to retain unclaimed money as a contingent liability on its accounts indefinitely.</p> <p>However, Inland Revenue's ability to use its existing tax information to match owners of unclaimed money with their money will result in a greater number of unclaimed money owners being reunited with their money, and fewer amounts of unclaimed money going unclaimed.</p>	

### Charges in the nature of a tax

<b>4.2. Does this Bill create or amend a power to impose a fee, levy or charge in the nature of a tax?</b>	<b>NO</b>
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### Retrospective effect

<b>4.3. Does this Bill affect rights, freedoms, or impose obligations, retrospectively?</b>	<b>YES</b>
<p>Increasing the automatic calculation threshold to remove taxpayers' obligations to pay small amounts of tax has application to the 2019–20 income year only. This measure is taxpayer friendly and is part of the Government's COVID-19 response to ensure that taxpayers are not required to pay relatively small amounts of tax in a year when they may have other financial pressures. Although the proposal is technically retrospective, it practically applies to payment demands which will be issued in the current tax year as the auto-calculation process is undertaken.</p>	

### Strict liability or reversal of the burden of proof for offences

<b>4.4. Does this Bill:</b>	
<b>(a) create or amend a strict or absolute liability offence?</b>	<b>NO</b>
<b>(b) reverse or modify the usual burden of proof for an offence or a civil pecuniary penalty proceeding?</b>	<b>NO</b>
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### Civil or criminal immunity

<b>4.5. Does this Bill create or amend a civil or criminal immunity for any person?</b>	<b>NO</b>
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### Significant decision-making powers

<b>4.6. Does this Bill create or amend a decision-making power to make a determination about a person's rights, obligations, or interests protected or recognised by law, and that could have a significant impact on those rights, obligations, or interests?</b>	<b>NO</b>
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### Powers to make delegated legislation

<b>4.7. Does this Bill create or amend a power to make delegated legislation that could amend an Act, define the meaning of a term in an Act, or grant an exemption from an Act or delegated legislation?</b>	<b>NO</b>
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<b>4.8. Does this Bill create or amend any other powers to make delegated legislation?</b>	<b>NO</b>
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### Any other unusual provisions or features

<b>4.9. Does this Bill contain any provisions (other than those noted above) that are unusual or call for special comment?</b>	<b>NO</b>
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## Appendix: Further Information Relating to Part Three

### External consultation – question 3.6

External consultation on the proposals in the Supplementary Order Paper was undertaken. Information on the consultation, including the form that the consultation took, what was covered, and the nature and extent of the feedback received is available in:

- The supplementary commentary on the Bill, which is available at <https://taxpolicy.ird.govt.nz/publications/2020-commentary-arferm-bill-supplementary/overview>.
- The tax policy consultation document *Unclaimed money*, January 2020, which is available at <https://taxpolicy.ird.govt.nz/publications/2020-ip-unclaimed-money/overview>.
- The regulatory impact assessment *Review of Unclaimed Money Act*, which is available at <https://taxpolicy.ird.govt.nz/publications/type/regulatory-impact-assessment>.

The following is a list of the main government bodies (excluding New Zealand government departments), representative organisations, and other groups, organisations and entities that have been consulted in the preparation of the Supplementary Order Paper.

#### **Government bodies**

- Public Trust

#### **Representative organisations**

- BusinessNZ
- Chartered Accountants Australia and New Zealand
- Corporate Taxpayers Group
- Electricity Retailers' Association of New Zealand
- Financial Services Council of New Zealand
- National Beneficiary Advocacy Consultation Group
- New Zealand Bankers' Association
- New Zealand Law Society

#### **Other parties/organisations/entities**

- BVO
- Complectus Limited
- Computershare Investor Services Limited
- Link Market Services
- Nova Energy Limited
- Perpetual Guardian
- Sue Barker, Charities Law