

House of Representatives

Supplementary Order Paper

Thursday, 9 February 2017

Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Bill

Proposed amendments

Ron Mark, in Committee, to move the following amendments:

Clause 2

After *clause 2(30)* (page 21, after line 11), insert:

(30B) **Section 37B** comes into force on the later of—

- (a) the date on which this Act receives the Royal assent; and
- (b) the date that the Building (Earthquake-prone Buildings) Amendment Act 2016 comes into force.

New clause 37B

After *clause 37* (page 37, after line 28), insert:

37B Section DA 2 amended (General limitations)

In section DA 2(1), after “of a capital nature”, insert “, unless they are seismic works where an EPB notice has been issued for the building under section 133AK of the Building Act 2004”.

Explanatory note

This Supplementary Order Paper amends *clause 2* and inserts *new clause 37B*, amending *section DA 2* of the Income Tax Act 2007 to redress significant tax disadvantages faced by commercial, industrial, retail, and heritage property owners when looking to bring buildings above the earthquake-prone building threshold required by the Building Act 2004. Major chartered accountants, like KPMG and others, have been outspoken in their belief that Inland Revenue is inconsistently treating the tax

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deductibility of business costs by considering seismic works to be a capital expense for tax purposes. As the Property Council of New Zealand noted in its April 2014 submission: “The expenditure required to remedy this will not increase the value of the building, on the basis that earthquake strengthening will not qualitatively change the function of the building (ie, will generally not result in a higher rental stream).... In short, expenditure on earthquake strengthening is largely made to mitigate a loss in economic value, not enhance the value of a building”. Without this amendment, many buildings may be demolished without replacement, especially in provincial New Zealand.