

House of Representatives

Supplementary Order Paper

Tuesday, 12 June 2018

Taxation (Neutralising Base Erosion and Profit Shifting) Bill

Proposed amendment

Hon Stuart Nash, in Committee, to move the following amendment:

Clause 30(1): new section FH 15(1)

Replace the definition of *structured arrangement* (page 48, lines 6 to 13) with:

structured arrangement, for a person, means an arrangement to which the person or a member of the person's control group is a party—

- (a) for which—
 - (i) a transaction under or involving the arrangement has a price that assumes the existence of a hybrid mismatch;
 - (ii) the facts or circumstances indicate that the arrangement is intended to rely on or produce a hybrid mismatch; and
- (b) under which the person, or a member of the person's control group, can reasonably be expected to be aware of—
 - (i) a tax benefit for the person that arises from the hybrid mismatch;
 - (ii) the existence of the hybrid mismatch

Explanatory note

This Supplementary Order Paper replaces the definition of *structured arrangement* in the Bill with an amended definition that has the effect intended by the Finance and Expenditure select committee.

**Proposed amendments to
Taxation (Neutralising Base Erosion and Profit Shifting)
Bill**

SOP No 38

Under the committee’s recommended change, the 3 paragraphs of the amended definition are alternatives. The replacing paragraphs produce the intended effect, which is that the new paragraph (b) restricts the scope of the 2 subparagraphs of paragraph (a). In addition, the relevance of the facts or circumstances of the arrangement is restricted to the determination of whether the arrangement is intended to rely on or produce a hybrid mismatch.

Departmental disclosure statement

The Inland Revenue Department considers that a departmental disclosure statement is not required to be prepared for this Supplementary Order Paper.