Inland Revenue
Te Tari Taake

CASE SUMMARY

High Court concludes Taxation & Charities Review Authority was correct in finding work done on commercial building was capital in nature

Decision date: 3 July 2026

CSUM 26/09

CASE

Podium Investments Limited v Commissioner of Inland Revenue [2026] NZHC 1920

LEGISLATIVE REFERENCES

Income Tax Act 2007, ss DA 1, DA 2(1)
Tax Administration Act 1994, ss 138P, 149A
Taxation Review Authorities Act 1994, s 26A

LEGAL TERMS

Capital expenditure, repairs and maintenance; seismic strengthening; building refurbishment; deductibility; revenue account.

CASE LAW REFERENCES

Commissioner of Inland Revenue v Trustpower Ltd [2015] NZCA 253
Auckland Gas Co Ltd v Commissioner of Inland Revenue [2000] 3 NZLR 6 (PC)
Lawrence v Commissioner of Inland Revenue [2024] NZHC 905
Colonial Motor Co Ltd v Commissioner of Inland Revenue (1994) 16 NZTC 11,361 (HC)
Sherlaw v Commissioner of Inland Revenue (1994) 16 NZTC 11,290 (HC).
Poverty Bay Electric Power Board v Commissioner of Inland Revenue [1999] 2 NZLR 438 (CA)
Conn (H M Inspector of Taxes) v Robin Bros Ltd (1966) 43 TC 266
W Thomas & Co Pty Ltd v Federal Commissioner of Taxation (1965) 115 CLR 58
Federal Commissioner of Taxation v Western Suburbs Cinemas Ltd (1952) 86 CLR 102

LEGAL SERVICES SOLICITOR

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Summary

Podium Investments Ltd (**Podium**) sought to deduct approximately $460,000 of seismic strengthening expenditure and $1.5 million of ground-floor glass façade expenditure incurred as part of a major refurbishment of a commercial building, located in Hamilton. The High Court dismissed Podium's appeal of the Taxation & Charities Review Authority (**TCRA**) decision which found in in favour of the Commissioner, holding that both categories of expenditure were capital in nature because they formed an integral part of a wider project that transformed a seismically sub-standard retail building into a modern, compliant office building. The High Court also found that on a standalone basis, the works independently resulted in significant improvements to the building's character, functionality and value.

Impact

The decision confirms that expenditure incurred as part of an overall building redevelopment project may be capital even where particular work items can be physically identified and separately costed. It reinforces that seismic strengthening and building façade works are likely to be capital where they materially improve a building's safety, functionality, attractiveness to tenants, or overall character. The judgment also emphasises that expenditure addressing original design or construction defects will generally be capital rather than deductible repairs and maintenance.

Facts

Podium owned the five lower levels of a large mixed-use commercial building in Hamilton. After its anchor tenant vacated in 2014, Podium entered into an agreement to retrofit and lease part of the building to the Waikato District Health Board. The project included substantial renovations, such as seismic strengthening, installation of a new glass façade, lifts, stairs, an atrium and other upgrades. The building's hollow-core flooring had been assessed at only 34% of the New Building Standard and required strengthening before it could be safely occupied. Podium claimed deductions for the items of work contending that the expenditure was repairs and maintenance rather than capital improvements. The parties reached agreement on a number of the items in dispute leaving the expenditure on seismic works and the ground-floor glass façade before the TRCA which found in favour of the Commissioner and upheld his assessments on those items.

Issues

1. Whether the seismic strengthening expenditure was inseparable from other work on the building that was capital in nature.
2. Whether the seismic strengthening expenditure, considered on a stand-alone basis, constituted repairs and maintenance or capital expenditure.
3. Whether the glass façade expenditure was inseparable from other work on the building that was capital in nature.
4. Whether the glass façade expenditure, considered on a stand-alone basis, constituted repairs and maintenance or capital expenditure.

Decision

The High Court dismissed Podium's appeal, finding the seismic strengthening work was an integral and inseparable part of a single redevelopment project converting a seismically deficient building into a compliant and desirable office building. The High Court found that there would have been little utility in undertaking the other refurbishment works without making the building safe and compliant, and therefore the seismic work was an integral part of the project and took its character from the overall capital project.

The High Court further held that, even considered independently, the seismic work was capital expenditure because it transformed the building from a sub-standard and unsafe structure into one meeting acceptable seismic standards. The work materially improved the building's character and tenantability rather than merely restoring it. The portion of the work addressing a defective beam was also capital because it remedied an original construction defect and improved the asset rather than repairing wear and tear.

The Court likewise held that the glass façade work was an integral part of the overall redevelopment and could not sensibly be separated from it. On a stand-alone basis, the work went well beyond replacing worn glass. It involved extensive redesign, removal of solid walls, enclosure of previously open areas, creation of a seamless glazed façade and enhancement of office space. These changes modernised the building and significantly altered its character and functionality, making the expenditure capital in nature.

Costs were awarded to the Commissioner on a category 2B basis unless otherwise agreed.

About this document

These are brief case summaries, prepared by Inland Revenue, of decisions made by the Taxation Review Authority, the District Court, the High Court, the Court of Appeal or the Supreme Court in matters involving the Revenue Acts. For Taxation and Charities Review Authority matters, names have been anonymized. The findings of the court described in a case summary will no longer represent current law where the matter has been successfully appealed or subsequent amended legislation has been enacted.