

**IN THE SUPREME COURT OF NEW ZEALAND**

**SC 95/2009  
[2009] NZSC 128**

BETWEEN	J D AND C E HENSON PARTNERSHIP First Applicant
AND	JULIAN DOYLE HENSON Second Applicant
AND	CAROLYN ELLEN HENSON Third Applicant
AND	THE COMMISSIONER OF INLAND REVENUE Respondent

Court: Tipping, McGrath and Wilson JJ

Counsel: D G Hayes for Applicants  
M S R Palmer for Respondent

Judgment: 15 December 2009

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**JUDGMENT OF THE COURT**

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- A The application for leave to appeal is dismissed.**
- B The applicants are to pay the respondent for costs the sum of \$3000.00 plus disbursements to be fixed, if necessary, by the Registrar.**

## **REASONS**

[1] In their submissions in support of this application for leave to appeal in a taxation case, the applicants say that their essential concern is that they believe they have not been given a proper notice of assessment. In response the Commissioner states that the correctness and validity of the tax assessment issued was confirmed by the Taxation Review Authority and the High Court. Furthermore, the Court of Appeal dismissed the applicants' challenge to the validity of the assessment.

[2] The case is very unusual because it involves the issuing of manual instead of computer generated assessments. The facts are therefore quite special and we cannot regard them as giving rise to any point of law of general or public importance or of commercial significance. As well, the Court of Appeal's conclusion that the statements of account issued on 15 October 1996 and 26 February 1997 could, in the particular circumstances, properly be regarded as notices of assessment represents a factual conclusion which gives rise to no issue of principle.

[3] For these reasons the application for leave to appeal must be dismissed.

Solicitors:  
Brook Law, Hamilton for Applicants  
Crown Law Office, Wellington for Respondent