



Supreme Court of New Zealand

18 December 2008

MEDIA RELEASE – FOR IMMEDIATE PUBLICATION

**BEN NEVIS FORESTRY VENTURES LTD AND ORS v COMMISSIONER
OF INLAND REVENUE
(SC 43/2007)**

**ACCENT MANAGEMENT LTD AND ORS v COMMISSIONER OF INLAND
REVENUE
(SC 44/2007)**

[2008] NZSC 115

PRESS SUMMARY

This summary is provided to assist in the understanding of the Court's judgment. It does not comprise part of the reasons for that judgment. The full judgment with reasons is the only authoritative document. The full text of the judgment and reasons can be found at www.courtsofnz.govt.nz.

The Supreme Court has dismissed appeals, brought by a number of investors in a forestry development syndicate, against findings by the Court of Appeal that they participated in tax avoidance arrangements.

The particular arrangements concerned a forestry development in Southland known as the Trinity scheme. The arrangements involved the investors claiming deductions from assessable income in respect of payments of a licence premium for the right to use the land on which the forest was established and an insurance premium. In all cases the appellants provided

promissory notes to secure the payment of both premiums. Actual payment of the premiums is not, however, required to be made until 2047.

A majority of the Supreme Court, Tipping, McGrath and Gault JJ, has decided that, although the claimed deductions complied with the ordinary specific provisions in income tax legislation under which they were claimed, the Trinity scheme involved tax avoidance arrangements which were void under the legislation. The claims for deductions were accordingly disallowed.

In a separate judgment the Chief Justice and Anderson J agreed that the claimed deductions must be disallowed on the basis that the expenses were part of a wider tax avoidance arrangement.

The Court has also upheld penalties imposed on the appellants under the Tax Administration Act 1994 for taking an abusive tax position in claiming the deductions.

Costs of \$75,000 were awarded to the Commissioner of Inland Revenue.

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