



Supreme Court of New Zealand

14 April 2008

MEDIA RELEASE – FOR IMMEDIATE PUBLICATION

**WESTPAC BANKING CORPORATION LIMITED v COMMISSIONER OF
INLAND REVENUE AND OTHERS**

(SC 66/2007)

**ANZ NATIONAL BANK LIMITED AND OTHERS v COMMISSIONER OF
INLAND REVENUE**

(SC 67/2007)

[2008] NZSC 24

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.

Westpac and ANZ National, along with other trading banks, are in litigation with the Inland Revenue Department over assessments of their income tax liability that were made on the basis that certain structured financing transactions they entered into involved tax avoidance. The substantive litigation is in its preliminary stages in the High Court.

The Supreme Court has today delivered judgment in appeals which raised questions concerning legislation which requires the Inland Revenue Department to maintain secrecy in respect of taxpayers' records. Westpac and ANZ National challenged the Commissioner of Inland Revenue's intention, in the litigation involving those banks, to use documents concerning

financing transactions entered into by other banks. The Supreme Court has held, unanimously, that exceptions in tax secrecy legislation permit the use for evidential purposes of such documents by the Commissioner in litigation, if they are relevant and that use is reasonably necessary for the Commissioner's case. That is so even though information held by the Department concerning taxpayers other than the particular litigant banks is involved. The Supreme Court's judgment upholds earlier findings of the Court of Appeal and High Court.

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