

IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI O AOTEAROA

SC 11/2026  
[2026] NZSC 52

BETWEEN JEREMY JAMES MCGUIRE  
Applicant

AND COMMISSIONER OF INLAND  
REVENUE  
First Respondent

DISTRICT COURT AT PALMERSTON  
NORTH  
Second Respondent

Court: Ellen France, Williams and Miller JJ

Counsel: Applicant in person  
K I S Naik-Leong for First Respondent  
No appearance for Second Respondent

Judgment: 7 May 2026

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**JUDGMENT OF THE COURT**

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- A The application for leave to appeal is dismissed.**
- B The applicant must pay the first respondent costs of \$2,500.**
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**REASONS**

[1] Mr McGuire seeks leave to appeal from a decision of the Court of Appeal striking out most of an appeal under r 44A(1)(c) of the Court of Appeal (Civil) Rules 2005 on the ground that those parts of the appeal were frivolous, vexatious or otherwise an abuse of process.<sup>1</sup>

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<sup>1</sup> *McGuire v Commissioner of Inland Revenue* [2025] NZCA 641 (Katz and Collins JJ) [CA judgment].

[2] The proposed appeal concerns Mr McGuire’s attempts to challenge tax assessments in proceedings which he brought outside of the dispute resolution regime in the Tax Administration Act 1994. The District Court entered judgment against Mr McGuire for unpaid tax in the sum of \$39,763.48, holding that it had no jurisdiction to consider his challenge to the tax assessments, and in any event, he had no reasonably arguable defence.<sup>2</sup> When the Commissioner of Inland Revenue commenced bankruptcy proceedings, Mr McGuire sought judicial review of the District Court decision.<sup>3</sup> That application was struck out by the High Court, principally because a deed of settlement between Mr McGuire and the Commissioner left no room for the argument.<sup>4</sup> Johnstone J did not find it necessary to decide whether the proceeding was an abuse of process.<sup>5</sup> He awarded indemnity costs against Mr McGuire.<sup>6</sup> The Court of Appeal struck out Mr McGuire’s substantive appeal, but allowed his appeal against the costs award to continue.<sup>7</sup>

[3] In this Court, Mr McGuire relies on a report by the Commissioner’s Disputes Review Unit (DRU)—which he says found that his tax liability was lower than subsequently assessed—contending that it bound the Commissioner. However, Mr McGuire did not take this position by challenging the subsequent tax assessment in dispute proceedings under the Tax Administration Act.<sup>8</sup> The tax has now been paid.<sup>9</sup> Nor did he plead that the Commissioner was bound by the report in his application for judicial review.

[4] The Commissioner does not accept that he failed to follow the report prepared by the DRU. He contends that Mr McGuire ought to have raised these arguments in the Taxation Review Authority, and in any case, referral to the DRU is an internal

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<sup>2</sup> *Commissioner of Inland Revenue v McGuire* [2022] NZDC 12179 (Judge Edwards) [DC judgment].

<sup>3</sup> *McGuire v The Commissioner of Inland Revenue* [2024] NZHC 883 (Johnstone J) [HC judgment].

<sup>4</sup> At [31]–[32].

<sup>5</sup> At [41].

<sup>6</sup> At [48].

<sup>7</sup> CA judgment, above n 1, at [22]–[24].

<sup>8</sup> We note that Mr McGuire did challenge one small aspect of the tax assessment in the Taxation Review Authority—a “not taking reasonable care” shortfall penalty of several hundred dollars—but did not challenge the substantive assessment: DC judgment, above n 2, at [28]. This proceeding was settled, and the deed of settlement expressly records that Mr McGuire “will have an amount of tax payable” for the relevant period: HC judgment, above n 3, at [27(c)].

<sup>9</sup> CA judgment, above n 1, at [21].

administrative procedure—although the Commissioner will generally adhere to its determinations, as a matter of law he may depart from them.

[5] This Court in *Tannadyce Investments Ltd v Commissioner of Inland Revenue* took the view that referring disputes to the DRU “is an administrative process not covered by legislation and its operation does not preclude the Commissioner from making an amendment to an assessment”.<sup>10</sup> This Court also accepted that s 109 of the Tax Administration Act prevents challenges to tax assessments by way of judicial review, except where the statutory disputes regime cannot be invoked.<sup>11</sup>

[6] The proposed appeal identifies the issue of general or public importance as clarifying the status of reports prepared by the DRU.<sup>12</sup>

[7] We accept that this may be an issue of general or public importance but we are not persuaded that the present case provides an appropriate vehicle to consider that issue, particularly given the late stage at which reliance on the DRU report has been advanced. Further, the prospects of success, having regard to the language of s 109 and *Tannadyce* in a situation where the Commissioner does not accept that he failed to follow the report, are not such as to justify leave.

[8] The application for leave to appeal is dismissed.

[9] The applicant must pay the first respondent costs of \$2,500.

Solicitors:

Te Tari Ture o te Karauna | Crown Law Office, Wellington for First Respondent

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<sup>10</sup> *Tannadyce Investments Ltd v Commissioner of Inland Revenue* [2011] NZSC 158, [2012] 2 NZLR 153 at [19] per Elias CJ and McGrath J. See also *Ch’elle (NZ) Properties Ltd v Commissioner of Inland Revenue* [2007] NZCA 299 at [48]–[50].

<sup>11</sup> *Tannadyce Investments Ltd*, above n 10, at [61], [73] and [76] per Blanchard, Tipping and Gault JJ.

<sup>12</sup> Senior Courts Act 2016, s 74(2)(a).