



IN THE TAX APPEAL TRIBUNAL

Case Number: TAT/02/25

Dated this 9th day of April 2026

Between:

FALKLAND ISLANDS TELEVISION LIMITED

and

THE COMMISSIONER FOR TAXATION

Constitution of the Tribunal:

Malcolm Simmons (Chair)

Keith Biles

Mark Neves

Derek Clarke

Andrew Brownlee

DECISION

Introduction

1. This is an appeal of Falkland Islands Television Limited ('FITV') against tax assessments of the Respondent, The Commissioner for Taxation ('the Commissioner').
2. The appeal is dated 15th December 2025 and is brought under section 181 of the Taxes Ordinance 1997 ('the Ordinance').
3. The Appellant and Respondent have requested that this appeal be determined on the papers, without an oral hearing.

4. The submissions and all of the documents upon which the parties relied were considered by the Tribunal, even if not specifically referred to herein.

Background

5. FITV is the only television company on the Falkland Islands. It is a joint venture between Stanley Services Limited ('SSL') and KTV Limited ('KTV') who each own 50% of the share capital in FITV.
6. FITV produces a weekly news programme called 'Falklands In Focus' and a less regular programme called 'Talking Point' that focuses on a single topical issue.

The Appeal

7. This appeal concerns corporation tax assessments for the period 30th June 2022 to 30th June 2024 and a re-assessment for the period ended 30th June 2021.
8. There are three principle grounds of appeal: firstly, what expenses purportedly incurred by FITV may be deducted for tax purposes; Secondly, what loss relief may be claimed by FITV and, Thirdly, finality of time limits for tax assessments.
9. We shall address each ground of appeal in turn.

Ground 1: Deductible expenses

10. Section 97 of the said Ordinance provides that subsection (3) sets out the general principle according to which the income of a business is to be calculated for a relevant accounting period.
11. Section 97 (3) of the Ordinance provides:

The general principle is that outgoings and expenses may be deducted from the income of the business if (but only if)-

(a) they were incurred during the relevant accounting period

- (b) they were *incurred wholly and exclusively for the purposes of the business*; and
(c) they are not of a capital nature.

12. There is a clear distinction between a deductible business expense and a 'benefit in kind', the latter being a personal benefit to an employee. The fact an employee derives a personal benefit from a 'perk' it receives from the employer does not mean the employer may deduct that benefit as a business expense.
13. Including a cost in an employment contract does not automatically make it allowable for the purpose of section 97.
14. For a company to deduct the cost of providing a 'benefit in kind', it must pass the test of having been incurred 'wholly and exclusively' for the purposes of the business.
15. *Vodafone Cellular Ltd. Shaw (Inspector of Taxes) [1997] STC 734* examines the principles distilled from *Mallalieu v Drummond [1983] AC 861* and *Mackinlay v Arthur Young McClelland Moores & Co. [1990] 2 AC 239*, the leading cases on the meaning of 'wholly and exclusively'.
16. When determining whether a purported expense shall be deductible, the primary issue is whether the purpose of the payment(s) was wholly and exclusively for the purpose of FITV's business.

'Wholly and exclusively for the purposes of the business'

17. The '*wholly and exclusively for the purposes of the business*' rule is a fundamental and common tax principle governing whether business expenses are tax-deductible. In order to be allowable, expenses must be incurred solely for the purpose of the business, trade, profession, or vocation.
18. There is no dispute that 'wholly and exclusively' is the correct test. FITV avers all expenses it incurred were incurred wholly and exclusively for the purposes of the business.
19. "Wholly" refers to the total rather than partial amount, while "exclusively" means the sole purpose, as apposed to a dual purpose.
20. Therefore, in determining whether an expense was incurred '*wholly and exclusively*' for the purposes of the business, consideration should be given to the 'purpose' of the expenditure,

whether any ‘incidental’ benefit followed and whether the expense served a dual purpose in circumstances where the expense incurred might be apportioned.

21. Sole purpose. The principle enshrined in section 97 (3) of the Ordinance is that any expenditure not incurred wholly and exclusively for the purposes of the trade, profession or vocation is disallowed. This means that the rule is only satisfied if the taxpayer’s sole purpose for incurring the expense is for the purposes of their trade, profession or vocation. This remains the case even if there is also one or more business reason(s) for making the expenditure. ‘Sole’ purpose should be distinguished from ‘dual’ purpose expenditure. If an expense is incurred for more than one reason, if one of the reasons is not for business purposes, the expenditure fails the statutory test and there is no provision that allows a ‘business’ proportion. That rule is subject to the apportionment principle below, *see Healy v Revenue and Customs Commissioners* [2015] UKFTT 233 (TC).
22. Incidental benefit. Where a taxpayer incurs an expense wholly and exclusively for the purposes of their trade, profession or vocation an incidental benefit may arise. Whether an incidental benefit is a deductible expense will be fact-specific.
23. Apportionment and duality. It is important to distinguish between expenses that can be conclusively defined and apportioned to a purpose that is wholly and exclusively to the benefit of the company and an expense that serves a dual purpose. The former would be an allowable expense; the latter would not.
24. FITV challenge a number of expenses that it incurred that were disallowed by the Commissioner. We will deal with each in turn.

Food Purchased for Isolation

25. FITV claim £28 for food it purchased for an employee in 2022 who was in isolation during the COVID pandemic. The Respondent disallowed that claim because it was not an expenditure incurred ‘wholly and exclusively’ for the purposes of the business.
26. In its appeal, the Appellant states:

“We purchased some food for a staff member arriving during the COVID period who had to isolate and was unable to visit the shops in person...We contend that such expenses would be allowable and is similar in nature to the welcome food that is provided to FIG staff on arrival from abroad.”

27. It is correct that, if meals are provided for strictly business-related purposes, the expense may be deductible. However, there is a general principle of taxability for meals provided to staff, which can only be overridden if the employer demonstrates a specific business need, *see Associated Newspapers Ltd v Revenue and Customs Commissioners (Upper Tribunal) [2015] UKUT 641*.
28. The Commissioners position is that this expense was not *incurred wholly and exclusively for the purposes of the business*.
29. There is an obvious dual purpose to food. Everyone must eat to live, regardless of their employment status. Food provides a clear private benefit in the form of sustenance.
30. While the employer may have provided the food to allow the staff member to isolate and eventually work, the expense also fulfils a basic human need. Because the expense simultaneously serves both a personal and a business function, it fails the 'exclusively' part of the test.
31. Therefore, we DISMISS this ground of appeal.

Travel Expenses

32. FITV claim £938 for travel expenses incurred in 2021, £2,105 for travel expenses incurred in 2022 and £427 for travel expenses incurred in 2023.
33. In its appeal, FITV avers "*FIGTO have disallowed these payments on the basis that the journeys were not solely for work purposes. We disagree with this. Whilst staff members might have got some level of enjoyment from the trips this was not the business purpose for sending them. The business purpose relates either to work related travel or travel home during their contract.*"
34. The Respondent allowed travel expenses incurred at the beginning and end of employment but disallowed others claims that were not exclusively for the purposes of the business.
35. The Respondent disallowed this claim because it was not an expenditure incurred wholly and exclusively for the purposes of the business.
36. If an expense is incurred for more than one reason, and one of those reasons is private, it fails the "exclusive" test.

37. The expenses incurred by an employee travelling to visit family/friends is not an allowable claim.

38. Therefore, we DISMISS this ground of appeal.

Penguin Travel

39. FITV claim £63 for travel expenses (Penguin Travel) incurred in 2021 and £18 incurred in 2022.

40. The Respondent allowed travel expenses incurred at the beginning and end of employment but disallowed others claims that were not exclusively for the purposes of the business.

41. The Appellant avers:

“These expenses were incurred during the COVID period where it was mandatory to take the bus from MPC to begin isolation.”

42. If an expense is incurred for more than one reason, and one of those reasons is private, it fails the "exclusive" test.

43. The expenses incurred by an employee travelling to visit family/friends is not an allowable claim.

44. Therefore, we DISMISS this ground of appeal.

COVID Tests

45. FITV claim £72 for the cost of COVID tests it incurred in 2022. The Respondent disallowed that claim because it was not an expenditure incurred wholly and exclusively for the purposes of the business.

46. The Appellant avers:

“These were a legal requirement at the time; you needed negative COVID tests to come to the Falkland Islands and the UK had some testing requirements as well. These are allowable for the

same reasons as the Penguin Travel Bus. They are the costs of getting people to Stanley or back home.”

47. COVID-19 testing is the diagnosis and protection of human health. Because a test provides a personal benefit - confirming your own health status - it fails the "sole purpose" requirement for business expenses. A COVID-19 test merely puts an individual in a position to perform their duties - by proving they are fit to work - rather than being part of the work itself.
48. If a COVID test certificate were a legal requirement for a business trip, while serving a dual purpose, it would be an allowable expense.
49. The Commissioner has confirmed that, where testing was required for an employee travelling to the Falkland Islands to start their employment or where they had travelled wholly and exclusively for work, the cost of these tests is considered an allowable expense for tax purposes and a deduction has been made. On our assessment, that would be the correct approach.
50. Therefore, we DISMISS this ground of appeal.

Charlie's Taxi's

51. FITV claim for travel expenses incurred through using a taxi firm ('Charlies Taxi's) to transport employees to/from RAF Brize Norton.
52. The Appellant avers:

“...these were for legitimate business reasons. WE provided taxi's to get a person from Brize Norton to home and back for a mid contract flight or onward travel during a business trip. There appears to be nothing in the legislation to prevent the company from including a “door to door” when considering getting someone to or from the Falkland Islands. Brize Norton is not the easiest place to get to, and it seems perfectly reasonable to provide taxis.”
53. The Respondent allowed travel expenses incurred at the beginning and end of employment but disallowed others claims that were not exclusively for the purposes of the business
54. If an expense is incurred for more than one purpose, and one of those purposes is private, it fails the "exclusively" test.
55. Therefore, we DISMISS this ground of appeal.

56. FITV claims £412 in 2021, £47 in 2023 and £66 in 2024 for 'cleaning services'. FITV avers:

"[it] paid for a cleaner for the FITV house to maintain the communal areas. The house was owned by Stanley Services Limited and rented by the FITV staff... There is clearly an obligation when someone allows your staff to rent a property, staff that you have interviewed and are vouching for, that you participate in the basic maintenance of the property. Even maintenance is going a little far; it was for modest cleaning of the communal areas. This is a shared house, each person has a room but there is a communal kitchen, bathrooms and living space. It is not unusual for the employer (who has arranged this accommodation for them) to get involved in the cleaning and so forth. FITV is not in the habit of cleaning people's houses for them. It does so in this case because it houses our employees and are obliged to assist with keeping it tidy."

57. The Respondent disallowed those claims on the basis they were not incurred wholly and exclusively for the purposes of the business.

58. The house in question was owned by SSL. FITV employees occupied the house. There was no formal agreement between FITV and SSL regarding maintaining or cleaning the property. FITV employees were contractually responsible for maintaining the property. Therefore, it is correct that the expense was not 'wholly and exclusively' for the purpose of FITV's business. FITV was paying a personal expense that was the responsibility of the employees of FITV and was disallowed on this basis.

59. Cleaning a residence provides a significant private benefit by maintaining the employee's living environment. Because the expense serves both a business function - providing a benefit to staff - and a personal function in maintaining a home, it fails the "exclusively" test. The cost of domestic living—including cleaning, heating, and lighting—are "intrinsic" to human needs. These are personal or domestic expenses rather than direct costs of generating business income.

60. To be deductible from employment income, an expense must be incurred "in the performance" of duties, not merely to put the employee in a position to perform them. Cleaning a house where an employee lives is generally seen as facilitating their living situation, not performing their actual work.

61. If a specific, identifiable part of the house is used **exclusively** for business, a proportion of the cleaning costs may be deductible. However, this requires clear evidence that the specific

portion of the expense relates only to the business area. A communal area would not satisfy this requirement.

62. Therefore, we DISMISS this ground of appeal.

Clothing

63. FITV claim £505 in 2022 and £109 in 2023 for the cost of “clothing”. The Respondent disallowed that claim because it was not an expenditure incurred wholly and exclusively for the purposes of the business.

64. FITV avers:

“This relates to clothing provided to Hannah Newton who was “on air” talent for FITV. The clothes were for her to look professional on television... This isn’t about Hannah buying clothes for herself and claiming a deduction... as her clothing has a dual purpose. In this case, the company has bought clothes for her. The same argument cannot be made for the company. Whilst Hannah might buy and wear clothes for modesty, it would be argued that FITV only bought her clothes to look professional on TV. There is no duality of purpose from the company perspective; they were bought only for work purposes. As such the amounts should be allowed in full.”

65. Clothing usually fails the "wholly and exclusively" due to its intrinsic personal nature: even specific clothes worn only for work nevertheless provide the basic human requirement of being decently and warmly clothed.

66. Clothing is only deductible if it has **no everyday use** or is a functional necessity for the job. If an item is suitable for non-business use - even if one chooses not to wear it outside of work - it is considered part of an everyday wardrobe and is not deductible.

67. In *Mallalieu v Drummond* [1983], the House of Lords established the "duality of purpose" principle in UK tax law, ruling that expenses for everyday clothing are not tax-deductible even if required for a profession.

68. In that case, Ann Mallalieu, a barrister, sought to deduct the cost of purchasing and cleaning "sober" black clothing (suits, dresses, tights) required by the Bar Council's dress code for court appearances. She argued the expenditure was incurred "wholly and exclusively" for her

profession, as she only bought these items to comply with court rules and would not have otherwise chosen them for her private wardrobe. The House of Lords (by majority) rejected her claim. While her *conscious* motive was professional, the court held that the expenditure served a dual purpose: ‘professional’: Complying with professional dress codes and ‘private’: satisfying the basic human needs of "warmth and decency".

69. In the circumstances of this case, it does not matter that the clothes were paid for by the employer rather than the employee.

70. Therefore, to be deductible, an expense must serve *only* the business. If an "inevitable" private benefit exists, the entire expense is disqualified.

71. Therefore, we DISMISS this ground of appeal.

Internet

72. FITV claim £794 in 2021 and £1,246 in 2022 for the cost of providing internet to staff. The Respondent disallowed that claim because it was not an expenditure incurred wholly and exclusively for the purposes of the business.

73. FITV avers:

“FITV provided a basic internet package for the accommodation it provided its staff...FITV is primarily a news channel. There is a requirement and expectation for staff to work at home. You never know when a news story might break, and it isn’t reasonable to expect staff to use their own internet for work purposes. It also isn’t really practical for staff to go into work to use the internet there, as a news story could break at any time.”

74. The Commissioner avers the internet was not restricted to only business use and was primarily for personal use by the employees as this was connected to their accommodation and shared between those living there and any visitors. Whilst it was stated that a basic internet package was provided, upon review of the expense records, based on the Sure package prices, these represented the large package initially and this was later upgraded to the XL package. It is noted that at the time in the Falkland Islands, broadband was provided by a single universal provider and packages were priced, based on maximum data allowances. Employees paid a contribution towards the internet, but this did not cover the entire cost. A disallowance for the proportion that is not reimbursed by employees has been made because

it is impossible to separate out personal usage and business usage. It is not possible to apportion the respective business and personal use.

75. In order for home internet use to be a deductible expense, it must be possible to apportion that part of the internet use and charge that is wholly and exclusively to the benefit of the company.
76. If, as in this case, the same Wi-Fi is used for both business and private purposes it clearly has a dual purpose. Because the service is not used *only* for business – and it is not possible to apportion usage and cost between business and private use – it does not meet the "wholly" requirement.
77. Therefore, we DISMISS this ground of appeal.

Ground 2: Refusal to Allow Losses

78. Section 125 of the Ordinance provides:

*(1) Effect shall be given to this Chapter by a claim, but a claim may not be made in respect of a loss sustained in any business unless the business was being carried on, during the period in which the loss was sustained, **on a commercial basis and with a view to the realisation of profits.***

79. Section 125 (1) comprises a two-part test: was the business conducted on a 'commercial basis' (objective) and with a view to the realisation of profit (subjective): *Brown v Richardson (Inspector of Taxes)* [1997] STC (SCD) 233 and *Babylon Farm Ltd v HMRC* [2021] UKUT 224.
80. In order to satisfy the requirements of section 125, the business must be conducted with the primary goal of generating profit and achieving financial sustainability. It implies operating with business-like efficiency, focusing on revenue generation, and market-driven decisions.
81. FITV points to a profit of £14,562 for the period ended 30th June 2024, although no tax was paid due to losses carried forward from earlier years. Indeed, it is suggested that position has been confirmed by previous Tax Inspectors who have allowed losses in full. The Commissioner asserts that was an assumption on the part of tax officials and that, whether FITV was run on a commercial basis with a view to profit, has not been properly examined.

82. Although it has been operating since 2011, in the last 8 years FITV has only declared a profit twice - £2,177 in 2018 and £14,562 in 2024.
83. Under section 24 of the Ordinance, corporation tax is charged on a company on the full amount of its income for the year – including what are correctly described by the Commissioner as “uncommercial” payments from SSL.
84. While section 24 of the Ordinance includes all income, for the purposes of determining losses, section 125 considers the commerciality and view to realisation of profit. It is correct that these are quite distinct concepts. Income alone is not determinative of the commercial nature of a business.
85. The Commissioner avers FITV is not able to run on a commercial basis and that, by way of example, states that in 2023, payments from SSL made up at least 65% of turnover and asserts there is no direct relationship between what SSL pays and what it receives in return.
86. The company balance sheet as at 30 June 2024 shows that the company had a loan of £66,372 from one of the shareholders, which would not be demanded for repayment until such time the company has sufficient sums to repay.
87. The Commissioner avers the majority of the company’s income is derived from Stanley Services Limited and that these payments have no real commercial justification. In period 30th June 2023 and 30th June 2024, SSL paid the Appellant £93,600 under various headings including the sum of £6,600 for advertising during FITV shows. Advertising on this Station is limited with only one regular advertiser other than SSL and that one pays £100 pcm. The remainder of the payments from SSL are described either as sponsorship for a programme called “Talking Point” or for something described as the “Monthly Charge”.
88. There is no reliable correlation between the income FITV receives from SSL and the services it provides to SSL. Indeed, in its email of 12th November 2024, the Financial Director of SSL states: “*SSL see FITV as a very important part of Falklands life and have Board support to continue to support FITV in this way*”.
89. In an email on 12th November 2024, the Financial Director for SSL said “*We would like to point out that SSL take pleasure in been able to fund this venture, in the past it has not made any money and without SSL it would have failed years ago...*”

90. It is correct, as averred by the Commissioner, that FITV has rarely made an accounting or tax profit. The Commissioner submits it has never paid corporation tax. Accumulated losses outweigh the small profits it has made. It is clear on the face of the evidence before this Tribunal that, without the direct financial support from SSL, FITV would not make a profit in any accounting period and, in fact, may have ceased operating.
91. In order to perform its day-to-day activities, FITV relies upon the funds it receives from SSL. It appears the primary purpose of FITV is to fill a public service gap rather than operate with a view to profit.
92. FITV undoubtedly fails the first part of the test.
93. Therefore, we DISMISS this ground of appeal.

Ground 3: Finality of time limits for tax assessments

94. This ground of appeal relates to the re-assessment for the period ended 30th June 2021.
95. Section 173 of the Ordinance provides
- (1) Where it appears to the Commissioner that any person chargeable to tax for any chargeable period has been assessed at a less amount than that which ought to have been charged, the Commissioner may, according to the best of his judgment, assess the additional amount of tax not charged by the earlier assessment and, in the case of income tax, interest shall be due as if the tax had been charged in the earlier assessment.*
- (2) The provisions of this Ordinance relating to notices of assessment, appeals and other proceedings under this Ordinance shall apply to any additional assessment under this section and to the tax charged under the assessment.*
- (3) An additional assessment under this section may not be made more than two years after the date on which the original assessment was made.*
96. The original assessment was issued on 1st March 2022. An additional estimated assessment was issued on 29th February 2024. That was within the two-year period provided under section 173 (3) of the Ordinance.

97. Following the re-assessment, pursuant to section 175 (2) of the Ordinance, FITV filed an objection. On 13th March 2025, amendments were proposed by the Commissioner under section 175(7) of the Ordinance. On 21st April 2025, FITV agreed with the amendments. Thereafter, based upon that discussion and agreement, an additional assessment was issued on 5th June 2025.

98. The assessment was not issued outside the two-year deadline but was the culmination of discussions relating to an assessment issued within the two-year deadline.

Decision

99. For the reasons stated, we DISMISS this appeal.

100. This is the determination of the Tax Appeal Tribunal to which all members have agreed.



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Malcolm Simmons

Chair of the Tax Appeal Tribunal