



IN THE TAX APPEAL TRIBUNAL

Case Number: TAT/01/25

Dated this 7th day of April 2026

Between:

STANLEY SERVICES LIMITED

and

THE COMMISSIONER FOR TAXATION

Constitution of the Tribunal:

Malcolm Simmons (Chair)

Keith Biles

Mark Neves

Derek Clarke

DECISION

Introduction

1. This is an appeal of Stanley Services Limited ('SSL') against tax assessments of the Respondent, The Commissioner for Taxation ('the Commissioner').
2. The appeal is dated 2nd 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.

The Appeal

5. SSL appeal corporation tax assessments for the years ended 30th June 2020, 2021, 2022, 2023 and 2024.
6. The appeal comprises five distinct grounds of appeal:
 - a. Disallowance of staff Christmas party expenditure (2024)
 - b. FITV transactions (all years)
 - c. Raising of an additional assessment for 2020 after it had been assessed previously
 - d. The rate of interest charged (and 'charging of interest generally')
 - e. Refusal to mitigate interest on grounds of FIGTO delay

7. We will deal with each in turn.

a. *Disallowance of staff Christmas party expenditure*

8. This ground of appeal relates to 2024 only.
9. In its appeal, SSL states "*We host a Christmas party for all staff and allow each staff member to bring their partner. FIGTO wish to disallow an element of cost that relates to the attendance of partners, this was £1,607. The amount (including partners) per employee is under the £100 "staff entertainment" limit under S97(ea) and should include the cost of bringing your partner. This was the case under ESC8 (when enacted) and the paper submitted to MLAs enshrining this ESC8 into law made no mention of changing the standard practice to refuse partners in this way.*"
10. 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.*

11. Further, section 99 of the Ordinance specifically addresses ‘entertainment expenses’ and provides:

Any item of expenditure incurred in entertainment by a person carrying on a business shall be wholly disallowed in ascertaining the profits of the business unless the Commissioner is satisfied that it was reasonably incurred for the purpose of that business.

12. Therefore, section 99 qualifies section 97 (3) and provides that any expenditure that was not incurred reasonably for the purpose of the business shall be disallowed.

13. There is an exception in section 97A (ea) of the Ordinance that allows the deduction of:

expenditure incurred in providing entertainment to an individual employee subject to the maximum annual expenditure not exceeding £100 for each employee

14. Pursuant to section 97A (ea), a deduction may only be made in respect of entertainment provided to an individual employee. Therefore, any deduction is based upon the number of individual employees who attend the event, rather than the number of persons employed by the business. While section 57 (1) (u) refers only to ‘employees’, in our view the result would be the same.

15. SSL refers in its appeal to Extra Statutory Concession 8 in support of its averment that expenditure in providing entertainment to “partners or entire families” could be included as part of the allowable deduction. ESC 8 allowed an employer to claim entertainment costs as a deduction, subject to a maximum annual ceiling of £100 “for each employee including the costs paid on behalf of a member of the employees family or household or their partner.”

16. ESC 8 has been replaced by section 97 (A) (ea). The £100 cap has been preserved.

17. An Extra Statutory Concession cannot override the clear intention of the Legislature as enshrined in the plain language of the statute: *Wilkinson v IRC* [2006] STC 270.

18. Section 97 (3) establishes the general principle that any deduction must be wholly and exclusively for the purposes of the business. Read with section 99 and section 97A (ea), the

Commissioner has allowed a deduction of £100 per employee. There is no requirement – or, indeed, expectation – in the legislation for an additional deduction for partners of employees.

19. Therefore, DISMISS this ground of appeal.

b. FITV transactions (all years)

20. In its appeal, SSL avers “*FIGTO have disallowed most payments made to FITV Ltd (we are a 50% shareholder) on the basis that they are not "wholly and exclusively" for the purposes of SSL's business. We contend that they are. They relate primarily to a mixture of advertising and sponsorship.*

The issue relates mostly to the amounts that are paid and appears to suggest that there is a secondary purpose for the payments. We contend that there is no secondary purpose or that any such purpose is purely incidental to the main purpose of advertising and sponsorship.

The turnover for these transactions has been assessed in full in FITV and we would also suggest that the attempts by FIGTO to provide comparable pricing is flawed due to the limited market of TV advertising in the Falkland Islands as well as the comparables [sic] chosen.

We would also contend that the matter of these related party transactions has clearly been displayed in our accounts for many years prior to 2020 and been accepted by FIGTO. We think FIGTO should stand by the general accepted practice of previous generations of CT inspectors.”

21. It is clear on the face of the accounts of SSL and FITV that in the year ended 30th June 2022, SSL made payments to FITV of £77,000 for ‘sponsorship’ and £8,300 for ‘advertising’. in the year ended 30th June 2023, SSL made payments to FITV of £87,000 for ‘sponsorship’ and £6,600 for ‘advertising’. in the year ended 30th June 2024, SSL made payments to FITV of £87,000 for ‘sponsorship’ and £6,600 for ‘advertising’.

22. SSL avers that payments made to FITV are “wholly and exclusively” for the purposes of its business.

23. The Commissioner queried the purpose of these transfers from SSL to FITV. In an email sent on 12th November 2024, the Financial Director of SSL described these payments as “advertising”, “sponsorship” for a programme on FITV called ‘Talking Point’ and a “monthly charge”.

24. In terms of the ‘monthly charge’, in her email of 12th November 2024, the Financial Director of SSL stated:

“There is very little income for advertising, one outside client pays £100 per month, SSL pay £250 per month for 2 adverts and Falkland Islands Holidays (FIH) pay £300 for their monthly ad. There is no set scale for charging out of advertisements. The rest of the income is from a sponsorship – from Fortuna which is £1250 per month of the online shows, for which FITV mention their company. The rest is a monthly charge of £4750 which rotates between SSL, MHH and FIH monthly. Talking point is also sponsored by SSL at £2500 per month. 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. SSL see FITV as a very important part of Falklands life and have Board support to continue to support FITV in this way.”

25. In response to the Commissioners enquiries regarding the ‘sponsorship’ payments, on 2nd May 2025, the Financial Director of SSL stated:

“Unfortunately, it is hard to quantify what “we get from this expense” as FITV produces excellent television that costs money to produce. Other people advertise with FITV, and we also advertise and do other things. It is the way of the Falkland Islands.

SSL is one of the major businesses in the Falkland Islands. It is part owned by the government but makes profits, it does so in many commercial ways but also by providing necessary services to Falkland Islands, most notably things such as fuel where we have the exclusive contract.

We advertise on FITV but also in other media. We also provide prizes, other sponsorship, donate food and wine to events and many other things. Most businesses in the Falkland Islands would do the same. It would be incredibly difficult to quantify what we get from any of these activities.”

26. The monthly charge is a significant amount that it is not included in the SSL accounts as being for advertising.

27. Referring to sponsorship of ‘Talking Point’, in her email of 2nd May 2025, the Financial Director of SSL states:

“All TV shows have production costs and as said previously sponsorship is fairly common in the TV market. Your argument appears to be if we didn’t sponsor the show then the show wouldn’t get made, which is true. However, we do sponsor the show, and it does get made. As previously stated, it’s normally

an in depth look at a single topic that the makers feel will be of interest to people in the Falkland Islands. We accept this, and whilst I suppose we could insist on having adverts in the programme, we do not. It is not that sort of programme that needs interrupting with advertisements. We are happy that our sponsorship shows our logo at the beginning and the end and that we have had it made.”

28. ‘Talking Point’ does not promote SSL or its services. While we accept the logo of SSL appears at the beginning and end of the programme, this forms part of the cost of advertising for which an allowance has been made.
29. In its letter dated 4th July 2025, SSL accepts that, but for the payments it makes to FITV, ‘Talking Point’ would not be made. While there is some advertising of SSL at the beginning and end of the show, it cannot be correct that the production cost of ‘Talking Point’ is ‘wholly and exclusively’ for the purposes of SSL’s business.
30. SSL has, undoubtedly, been philanthropic in its support of FITV and the programmes that it produces. While the philanthropy of SSL is to be applauded, it cannot be said that its financial support of FITV is ‘wholly and exclusively’ for the business purposes of SSL.
31. Indeed, in its letter of 4th July 2025, SSL states “*Let’s be clear, FITV is a great thing for the Falkland Islands to have, and it’s good that SSL see the value in such a thing and are prepared to provide support for the business benefits it receives, even if these are not easy to measure.*”
32. The Commissioner cites *Vodafone Cellular Ltd. Shaw (Inspector of Taxes)* [1997] STC 734 that 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’. The primary issue is whether the purpose of the payment(s) was wholly and exclusively for the purpose of SSLs business.
33. The Commissioner has allowed a deduction of £6,600 per annum for advertising but disallowed the ‘sponsorship’ of ‘Talking Point and the “monthly charge” on the basis that these expenses were not incurred ‘*wholly and exclusively*’ for the purpose of the business.
34. While it is correct that a part of the money paid by SSL to FITV is for advertising and therefore serves a business purpose of SSL, we do not determine that the payments made to FITV for ‘sponsorship’ or the ‘monthly charge’ were made ‘**wholly and exclusively**’ for the purpose of SSL’s business but, rather, they were made for the benefit of FITV.
35. Therefore, we DISMISS this ground of appeal.

c. Raising of an additional assessment for 2020 after it had been assessed previously

36. In its appeal SSL avers “*Gavin Carpenter (FIGTO CT Inspector) issued a new assessment for 2020 under S173 after he had previously raised the final assessment on SSL for this period. He states he “was not aware of the transactions between SSL and FITV.”*

The accounts of SSL clearly state the amounts under related party. We are therefore unsure how Mr Carpenter was “unaware” of the transactions.

As the assessment had already been raised for 2020 and we considered this final, we did not expect a new assessment for this year. At no point did Mr Carpenter inform us that he was re-opening his enquiry into this year, and we were therefore unable to extend our responses to include this year or defend ourselves.

We believe the original assessment should stand.”

37. Section 173 (1) provides:

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.

38. Section 173 (3) provides:

An additional assessment under this section may not be made more than two years after the date on which the original assessment was made.

39. The original assessment was issued on 12th August 2024. On 5th June 2025, the Commissioner informed SSL of the additional assessment and stated it was not aware of the transactions between SSL and FITV. The additional assessment was to disallow expenses claimed by SSL in respect of ‘sponsorship’ and the ‘monthly charge’ paid to FITV.

40. Section 173 (1) is rather generous in terms of the parameters of any reassessment. There is no requirement in section 173 of the Ordinance for any reassessment to be based only on new information received by the Commissioner.

41. Subsection (3) provides that any reassessment must be done within two years of the date of the original assessment. That was done in this case.

42. Therefore, we DISMISS this ground of appeal.

d. The rate of interest charged and charging of interest generally

43. In its appeal, SSL avers “*Whilst the Tribunal cannot hear an appeal for a "requirement to pay interest on any tax unpaid or paid late" we wish to appeal the Commissioner's decision on the interpretation of the rate of interest charged.*

The matter is covered at some length in our original objection. In short, S33(1) charges interest at base lending rate +3%. S2 defines base lending rate as "base lending rate" means the rate of interest payable in respect of loans to customers in the Falkland Islands for the time being as announced by the Standard Chartered Bank, Stanley Branch;

In summary, we contend that base lending rate means the base lending rate (i.e what the Bank of England state and clearly stated in SCB). The Commissioner takes the "base lending rate" to be the rate of a personal loan, i.e. base lending rate + 4.5%. They then add on 3%.

We contend that this interpretation is incorrect and that the base lending rate means simply that, the Bank of England rate. This is covered in much more depth in our original objection, but our arguments and grounds remain unaltered.”

44. Section 33 (1) of the Ordinance provides:

Interest shall be due on any corporation tax (including ACT) remaining unpaid after the date on which it is due at the rate of 3 per cent per annum over base lending rate.

45. Section 2 of the Ordinance defines the ‘base lending rate’ as follows:

... the rate of interest payable in respect of loans to customers in the Falkland Islands for the time being as announced by the Standard Chartered Bank, Stanley Branch;

46. While SSL avers the incorrect interest rate has been applied, the wording of section 2 is quite clear. The base lending rate is not the Bank of England rate but the rate announced by Standard Chartered Bank, Stanley, and payable on loans to customers in the Falkland Islands. To that rate is added 3% in accordance with section 33 (1) of the Ordinance.

47. Therefore, we DISMISS this ground of appeal.

e. Refusal to mitigate interest on grounds of FIGTO delay

48. Section 181 (2) (c) provides that there is no right of appeal against a requirement to pay interest on any tax unpaid or paid late. Therefore, there is no right of appeal in respect of this ground of appeal. However, it might inform both the appellant and others if we were to explain the approach of the Tribunal on this issue.

49. In its appeal SSL avers *“The assessments that were issued in June 2025 relate to periods going back to 2020. Based on the objection response, we currently owe £29,963.28 (on the date of the response).*

SSL has always been tax compliant, and aside from some rather technical points we are currently appealing, has always paid tax on time. The above interest relates to tax charges of only £87,326.98, which is a significant amount.

The 2020 re-assessment currently has interest of £10,021.24 off an additional assessment of £19,890.

We contend that much of this interest has been caused by the delay by FIGTO in making these assessments. There was no way of knowing we owed this money until we received the assessments so no way of mitigating this interest.

The Commissioner has wide powers to mitigate in such circumstances, and natural justice and basic fairness suggests that they should be used in these circumstances.

We request that the interest charges are mitigated to a reasonable time frame such as when we were made aware that these additional tax payments were required, i.e. the date of final assessment.”

50. Section 27 of the Ordinance provides that:

Corporation tax for a corporation tax year charged on the income of an accounting period shall be due and payable on the day following the expiry of eight months from the end of that accounting period (whether or not the tax has been assessed).

51. The inclusion in section 27 of the wording “*whether or not the tax has been assessed*” means that if the tax that is ultimately assessed is higher than that paid, interest shall be charged in accordance with section 33 (1) of the Ordinance. The onus is clearly placed upon the taxpayer to ensure that it pays the tax due.

52. SSL did not pay the tax due. Instead, it sought to claim expenses as deductible that were not.

53. The tax assessments were made within the prescribed time limits.

Stare Decisis

54. In support of several of its averments, SSL relies upon the principle of Stare decisis.

55. The principle of stare decisis applies to the application and interpretation of statutes. While legislatures create statutes, courts interpret them; once a superior court interprets a statute, that interpretation becomes binding on lower courts, providing consistency in how laws are applied. However, a tax official is not bound by a decision or interpretation of a previous tax official regarding the same taxpayer or issue, providing the new decision is legally correct.

56. There is a power to remit in circumstances where it would be just and equitable to do so.

Conclusions and Decision

57. For the reasons stated, this appeal is **dismissed**.

58. That 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