

Supreme Court of Appeal of South Africa

MEDIA SUMMARY

From: The Registrar, Supreme Court of Appeal

Date: Monday, 26 November 2007

Status: Immediate

**The Commissioner South African Revenue Service v Airworld
CC and another**

The Supreme Court of Appeal today, by a majority of 3 to 2, allowed an appeal by the Commissioner, SARS, against a decision by the Cape Special Tax Court concerning liability for Secondary Tax on Companies (STC). The Tax Court had decided that, on a proper interpretation of ss 64B and 64C of the Income Tax Act 58 of 1962, a company or close corporation would only be liable for STC on payments made by it to a trust in which a shareholder (or a relative, as defined) is a beneficiary, if that shareholder or relative had a vested right to claim a benefit from the trust. The minority decision in the Supreme Court of Appeal was to the same effect. The majority decided that it is sufficient, to render the close corporation or company liable for STC, if the shareholder or relative is named as a beneficiary in the trust, regardless of whether he or she has a vested right to claim a benefit from the trust.

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