

Tax issues for sports clubs

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Many rugby clubs do not pay tax on profits. They find it all too easy to ignore awkward tax issues and leave planning to later when a problem arises. Adrian Houstoun of Kingston Smith LLP examines some of the tax issues that might need addressing.

There is considerable variation on the size and range of activities undertaken by rugby clubs – from the small amateur team at one end of the spectrum to the premier division professional side at the other. A club that exists to provide social or recreational facilities for its members is unlikely to be trading.

Mutual Trade

The 'professional' game has seen increasing commercialisation over the years; the arrival of sponsorship money and the sale of television rights. The full-blown professional clubs are trading and it may be that they organise their affairs in such a manner that the trade is not a mutual trade.

As an initial step a club needs to consider two interrelated questions: firstly whether the club is carrying on a trade, and secondly, if the club is trading, the extent to which that trade is a mutual trade.

If the club is exclusively mutual trading it will not be subject to direct tax on its surpluses. The statement by HMRC on the subject says that if the annual corporation tax liability is not expected to exceed £100 then HMRC will not require the submission of returns. This implies that profits are in the region of £500. However, if the club is a registered Community Amateur Sports Club "CASC" (see issue two of Running Rugby) then trading profits derived from turnover of up to £30,000 are exempt from tax, and also profits arising from property income where the property income does not exceed £10,000 are exempt from tax.

A club can register as a CASC if it is open to the whole community, and either run as an amateur club or as a non profit making organisation providing facilities for, and encouraging people to take part in, rugby or another eligible sport or it could even register as a Charitable Club "CC" if it complies with the more onerous requirements of a charity. As such it can receive 80% rate relief which can be a significant saving.

The main tax benefits of being a CASC or a CC also extend to donations to the club. Individuals can get relief from inheritance tax on gifts to CASC's and CC's, make gifts under gift aid, which means that the club receives an extra £28 on every £100 it receives, and get relief from capital gains tax on gifts of assets to the club.

Some club structures involve a separate company that may hold the freehold land. It is likely that such a company would be subject to corporation tax. Such clubs may have significant plant and equipment and they should make certain that the plant and equipment is purchased by the appropriate entity. If plant and equipment was purchased by the company subject to corporation tax, it ought to be able to claim capital allowances to set off against the corporation tax profits. However, this area has been subject to a lot of changes in recent years and you should make certain that you take professional advice.

Employment Issues

Many clubs have a real issue with retaining good people such as a bar manager. You should look at the way in which he or she is remunerated. For example, the club may pay the bar manager a fixed salary out of which he or she then makes a payment to a personal pension scheme. The club should look at whether it could make the payment to a personal pension scheme and reduce the salary. The club would save employers' NI, and it is likely that the employee would save employees' NI, which would all help in your efforts with staff retention.

Another point worth looking into is the involvement of other bar staff. It is not uncommon for the bar manager to involve family members during particularly busy times. This may give scope for employing the bar manager's wife but such an arrangement has to be genuine. By employing the bar manager's wife, for example, it may be possible overall to reduce the outgoings on NI.

Employment brings with it a number of obligations and deadlines with which you must comply. On 19th May each year the employers' year end return is due. By 31st May, employees must have their P 60 (the annual form showing gross pay and tax etc.), and by 6th July they must have their P11D detailing any benefits in kind. In addition, you must have paid employers' NI on benefits by 19 July.

Understanding VAT

VAT is a very complex area. Exemption applies to certain sporting and physical education services by non profit making bodies. Exempt income means that VAT on related costs and overheads - both direct and apportioned - is irrecoverable subject to de minimis amounts. This means that the provision of playing facilities by a non profit making body to members is exempt, but the provision of them to outsiders is likely to be standard rated. Social or non playing membership subscriptions are standard rated but those for playing members to a non profit making club are exempt, and this is an area that is often dealt with incorrectly. Catering, bar income and gaming machine income is standard rated whether or not the club is non profit making. VAT on construction costs or plant and equipment could be a material sum and it is important that you take advice for any significant projects.

Issues Affecting Professional Clubs

What about the issues that apply more to professional clubs? Already this year there have been two VAT cases concerning professional football clubs and VAT on fees paid to agents. The clubs tried to recover the VAT on the fees paid to the agents. Customs issued assessments to recover the VAT on the basis that the agent was acting for the player and not the club. The Tribunal sided with Customs but it was conceded that there may be rare circumstances where the agent was acting for the club, in which case the VAT on the agent's fee would be recoverable but one of the cases is ongoing so watch this space. The other area that needs considering with agents fees is whether there is a benefit in kind and this is an area that HMRC are keeping an eye on.

Professional clubs have to look after their players; a team will play to its optimum performance level if its individual players do not have undue off-field worries. Most established players will have a reputation that the club will wish to use in its marketing and merchandising activities. The club should, therefore, make certain that its contracts are properly set up to remunerate players for playing for the club and paying the appropriate amount for the image right of the player. By ensuring that they are dealt with properly both the club and the player will pay the right amount of tax.

