

Corporation Tax (CT) – a paper prepared for Law in Sport

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Clubs are subject to CT whether they are incorporated or not

The potential importance of this to club treasurers was brought home to this author when receiving a call from a practising lawyer who had recently been appointed as club treasurer. He was worried that on taking up his new position he could find no evidence that the club had looked at its corporation tax position and had had no contact with HMRC.

Of course, he was right to be concerned; clubs are subject to CT whether they are incorporated or not and clubs must register with HMRC and file CT returns online if HMRC requests them to do so or if they determine themselves that they have taxable profits.

Generally, there are no special exemptions unless they are registered as a charity or a Community Amateur Sports Club (CASC – see below) with HMRC. However, if the club's expected annual CT liabilities are small (see below) HMRC may agree to treat the club as dormant.

Identifying income and gains

Clubs need to identify sources of income and gains that are liable to CT but are allowed to deduct the costs of earning the income and gains under the normal CT rules. Member income is generally not taxable but that from non-members is although this can be a difficult area and will depend on whether the club is trading. HMRC devote [many pages of guidance](#) to its Inspectors on this. Gains from the sale of capital assets are also generally taxable. Taxable sources of income and gains would normally include-

- Investment income e.g. interest on deposits with the bank
- Income from property e.g. rental income
- Trading income from non-members e.g. from bar and food sales
- Capital gains e.g. from the sale of club land
- Sponsorship
- Regular fund raising events

Exemptions and reliefs (capital allowances)

Grants are generally exempt from CT where no goods or services are provided in return for the grant.

Tax relief is available for the costs of buying plant and equipment used to generate taxable income e.g. bar equipment to service non-member bar sales. The relief, known as capital allowances, may be quite valuable in the case of a facility improvement project with a large budget. Unfortunately, no relief is available for the construction costs of a new clubhouse apart from any element of plant and equipment. In the case of large capital projects, it will be worth taking advice from the club's accountant.

Corporation tax payable

If the club has taxable profits (after deducting allowable expenses) having done its calculations, it will be charged 20% CT on those profits currently with plans by the current Government to reduce the rate to 18% from 2020. Unfortunately, the so called "*nil rate*" band of CT whereby no CT was charged on annual taxable profits of £10,000 and under has long since disappeared so there is no automatic safety net threshold, taxable profits below which HMRC are not interested.

Filing returns

Clubs that have to file CT returns online have 12 months after their accounting year-end to do so using an HMRC specified format. Any tax that is due must be paid earlier; nine months and one day from their year-end. Failure to comply with these requirements can result in interest charges, the payment of CT for previous years and penalties.

HMRC are aware that many clubs are not meeting their CT compliance obligations and the author was delighted to receive the new club treasurers call detailed in the opening paragraph and help him by taking advantage of HMRC's concessionary treatment of some "*small clubs*". HMRC may treat such clubs with small tax liabilities as dormant for CT purposes and thus exempt from the requirement to file CT returns and pay CT where-

1. the club's annual CT liability is not expected to exceed £100, and
2. the club is run exclusively for the benefit of its members.

Where the club contacts HMRC and shows that these conditions are met HMRC will not send a "*Notice to deliver a company tax return*" and will treat the club as dormant. This is then reviewed by HMRC at least every 5 years. I helped the treasurer draft and send a suitable letter to HMRC who confirmed that his club was to be treated as small; the treasurer was able to sleep at night!

Top tips for dealing with CT

1. If the club has non-member income it may have to pay CT.
2. Interest, property income and capital gains are all taxable and should be reported to HMRC.
3. Maximise the costs that can be deducted to minimise taxable profits- use HMRC guidance to do this.

4. Take particular care with substantial spending on facility improvement; the club may be liable to tax on the increased income but may get allowances for plant and equipment.
5. "*Small clubs*" which have never filed CT returns should consider approaching HMRC to confirm this status.

Special status for tax purposes

The advantages of registering as a charity or CASC has been covered in other featured pieces published by LawInSport so I will only briefly mention them here. Clubs have a choice of registering under either (not both) or not registering at all. A high-level comparison of the three options facing clubs can be found on a dedicated CASC website, www.cascinfo.co.uk.

PAYE, NIC and NMW will apply in the same way to all three but charity status does attract VAT reliefs not available to the other two including the zero rating relief on new buildings mentioned above.

It is in the CT area that clubs really benefit since under both charity and CASC status CT can effectively be avoided. This is because firstly, there are exemptions for certain types of income and all capital gains provided they are used for sporting purposes within the CASC and charity respectively and secondly, where these exemptions are not available taxable activities can be carried on by a trading subsidiary. Although this makes taxable profits they can be donated tax free to the subsidiary's CASC/ charity parent. Such a structure has been available to charities for many years and is now available to CASC's.

Other major benefits to charity and CASC status are 80% mandatory business rate relief and the ability to use gift aid and the gift aid small donations scheme to recover 25% back from HMRC on any donations received.

Registration for either status, and complying with ongoing administrative and regulatory requirements, will require extra work and impose conditions so registration is not for every club. The benefits should be weighed up against the costs for each club to see whether registration is worthwhile.

Comment

Sports clubs are often unaware of their tax obligations. Responsibility for tax usually falls to the treasurer who, as a volunteer, will not generally (in the author's experience) have the skills to deal with all of its many aspects. Treasurers will have very different backgrounds and the club treasurer will often change without passing on the club's tax history or knowledge. A lawyer taking on the role should take particular care since HMRC is likely to have less sympathy with a professional who gets it wrong. If the club is not incorporated the treasurer can be exposed to liability for any tax debts that are due. Considering [incorporation](#) may therefore be worthwhile.

Unfortunately community sports clubs run by volunteers generally enjoy no special tax treatment; in the author's view HMRC and HM Treasury do not recognise the good work that clubs do in the

community, although in recent years matters have improved with the ability of some clubs to register as charities or under the [Community Amateur Sports Club](#) (CASC) scheme. Despite this, less than 10% have taken advantage of either tax-favoured status.

There is no point in clubs burying their heads in the sand when it comes to tax. HMRC regard sports clubs as a happy hunting ground for training new compliance officers where they are guaranteed to collect tax from clubs that do not comply with their tax obligations. In the author's experience, volunteers are likely to get things wrong in a tax system that is already sinking under the weight of a tax code of over 17,000 pages and which grows significantly following each annual Budget Statement.

The treasurers task is not helped by an inconsistent non-joined up approach to sport from HMRC across the UK; value added tax is a good example where individual Inspectors can often give quite different answers to the treatment of VAT recovery on facility improvement projects despite similar facts and circumstances. Asking another club about its experiences with the VAT-man will not necessarily be of much help. Sometimes HMRC's internal communication will work although not necessarily to a club's advantage e.g. a club whose HMRC PAYE audit revealed cash payments to players out of undeclared cash receipts from the bar may soon find it is subject to a VAT control visit and a request for under declared VAT, interest and penalties.

HMRC are putting clubs tax affairs under the microscope; they have tax to collect and will think nothing of going after a volunteer led community sports club.

Club treasurers should be prepared to defend their club's tax position (and themselves) taking advantage of any available HMRC concessions and reliefs where possible. A head in the sand attitude is fraught with danger!