Howzat for complicated?

General Features



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Richard Baldwin explains the Community Amateur Sports Clubs scheme

Key Points

What is the issue?

CASC status can help generate much-needed funds for community sports clubs

What does it mean for me?

Many tax advisers are involved with local sports clubs as committee members, coaches, volunteers or even paid advisers. Having knowledge of CASC can help you and your club

What can I take away?

An understanding of CASC benefits, qualifying conditions and the imminent changes to the CASC scheme to help you decide whether CASC registration is appropriate

Despite the involvement of many tax professionals with local sports clubs, both voluntarily and as fee earners, the question ‘What is a CASC?’ is often met with a blank look. Yet registering as a community amateur sports club (CASC) can provide vital cash by conferring valuable tax benefits estimated to be worth more than £20 million a year.

The CASC scheme was designed as a light touch. It was intended to be easy for voluntary club officials to follow and comply with its conditions, which involved registering with HMRC only and not the Charity Commission. However, tax practitioners should re-familiarise themselves with the rules because these are about to become more prescriptive. Now is an ideal time to review CASC status.

History of CASC

CASC legislation in FA 2002 Sch 18 came after three years of lobbying of the government of the day. Amendments followed in FA 2004, together with the provision of mandatory business rate relief of 80% (in 2004), which helped CASC registration take off. The current legislative framework is complex, even for the hardened tax adviser. CASC law was re-written in CTA 2010 ss 658–671 and amended by Finance Acts 2010, 2012, 2013 and 2014. FA 2013 enabled the introduction of regulations laid before the House of Commons in December 2014.

These change the qualifying conditions and, together with HMRC’s new guidance, should be in place by 1 April 2015.

The benefits of CASC status

Until April 2014 the main benefits were:

(a) 80% mandatory business rate relief.
(b) Gift aid on individual donations with a 25% tax rebate (as for charities, but CASCs cannot claim gift aid on members' subscriptions).
(c) Exemption from corporation tax on capital gains and interest income if applied for qualifying purposes that is for providing facilities for and/or promoting eligible sport(s).
(d) Exemption from corporation tax on gross trading income and gross rental income up to £30,000 and £20,000 a year respectively, again if applied for qualifying purposes.
(e) Cash refunds under the gift aid small donations scheme from 6 April 2013 at the rate of 25% on qualifying cash donations of £20 or less, subject to a maximum total refund of £1,250 a year.
(f) Inheritance tax reliefs, such as donors' gifts and bequests, to CASCs are exempt.

As a result of HMRC consultation on the CASC scheme, improvements have been made to these benefits:

- corporate gift aid is available to companies (including a CASC's subsidiary) for donations to CASCs from 1 April 2014 (FA 2014 s 35) giving similar relief to that now available for corporate giving to charities; and
- the tax exempt thresholds in (d) above will increase to £50,000 and £30,000 a year from 1 April (SI 2014/3327). The changes were laid before the House of Commons on 18 December 2014.

Sports clubs that register as CASCs should not pay corporation tax, as long as they plan their affairs in good time.

The existing qualifying conditions

Before FA 2013 and the new regulations, clubs needed to satisfy these qualifying conditions:

1. The club's main purpose must be providing facilities and promoting eligible sport(s).
2. Membership must be open to the whole community without discrimination and clubs must have affordable membership fees.
3. Clubs must be organised on an amateur basis which means, inter alia, that players cannot be paid other than only limited expenses for away travel.

Members cannot receive income distributions or share in surplus assets on a winding-up of the club.
4. Clubs must be set up and provide facilities in an eligible area, in practice mainly the UK.
5. Clubs must be managed by fit-and-proper persons.

The qualifying conditions will be extended and more prescriptive after recent proposed changes.

HMRCs consultation process and the new conditions

In 2010, HMRC had concerns over the CASC qualifying conditions and started ‘stockpiling’ some CASC applications (many of which remain stockpiled). Chief among their concerns were:

(a) that high membership fees were preventing clubs being ‘open’; and
(b) clubs with their own facilities generated high levels of non-sporting income, such as through the bar, potentially making them ‘social’, not ‘sports’ clubs.

HMRC drafted revised guidance reflecting their views in December 2012, but dropped it when presented with a contrary opinion from James Kessler QC. In the preceding two years, the national governing bodies of sport (NGBs) attempted to reach agreement for more practical guidance. But HMRC decided to consult on changes to the scheme in June 2013 rather than reflect counsel’s views in the revised guidance.

HMRC’s consultation was poorly received by sports bodies, with a leading Olympic sport’s CASC champion commenting: ‘My view [is] that throughout the consultation period, the NGBs have been talked to rather than consulted.’ The government policy response in November 2013 was followed by a technical consultation, now closed, on the regulations to implement its policy decisions.

No significant changes were made to the draft regulations. However, HMRC’s earlier concerns (see (a) and (b) above) have been addressed by the following:

1. Under a new income test, taxable annual non-member income (calculated under the corporation tax rules) must be under £100,000 a year. Establishing a

subsidiary should overcome the potential problem for clubs near or exceeding the limit and avoid corporation tax using corporate gift aid.

2. To satisfy the ‘open to the community’ condition, there will be a limit on membership costs (including membership and joining fees) of £520 a year with detailed cost calculation rules and provision for arrangements to be made for those that cannot afford it where costs exceed the limit. Clubs with membership fees exceeding £1,612 a year will be barred from the scheme.
3. The number of participating, as opposed to social, members is limited to 50% (part of the ‘main purpose’ test). The regulations formally specify which members are participating. Problems are likely to arise in junior sports clubs with parent and family memberships.

Any number of players can now be paid up to £10,000 a year in total and, in a welcome relaxation, there are new potentially beneficial rules for travel and subsistence and player payments.

Further HMRC guidance matters

Many issues remain including the practicalities of wading through a near tripling of pages of legislation on CASC. It must be hoped that HMRC will soon clarify the following:

- the establishment of appropriate trading subsidiary structures acceptable to HMRC; and other areas such as VAT, rate relief and alcohol licensing rules will need to be considered before clubs restructure non-member activities within a CASC’s subsidiary;
- the process for a CASC to incorporate since CASC registration can’t be transferred and the new company will have to re-register;
- how will multi-sports clubs be treated – there may be practical issues such as identifying the relevant membership costs for the new test; and
- the treatment of club tours – expenses reimbursed for non-qualifying tours will be a bar to CASC membership.

Crucially, additional record-keeping and evidence will be required by HMRC. ATT President Natalie Miller is on record as saying:

‘Clubs will now need to keep a tab on up to 16 different aspects of their operations ... the government has recognised that sports clubs have a key role to play … but

they will be hampered by the near self-defeating complexity of the tax-relief criteria.’

It is hoped that, despite this sentiment, HMRC will be able to apply the new regulations flexibly.

Decisions for clubs

The cash benefits should be measured against the additional time and record-keeping required to obtain and maintain CASC status. In evaluating this, clubs should consider whether transferring activities to a new charitable club is a better option. Existing CASCs will have 12 months to determine whether they still qualify or can restructure to satisfy the new regulations. If not they may be able to leave the scheme without penalty (with HMRC’s agreement).

Property-owning CASCs deregistered by HMRC after the transitional year should beware of the potential draconian capital gains charge based on a deemed disposal of their land at market value on de-registration (CTA 2010 s 669).

The future of CASC

With improved benefits after 1 April 2015, CASC status should remain a potentially valuable route for increasing the flow of money into a sports club. Support from professionals, by setting up trading subsidiaries for example, will be vital for CASCs to thrive. The major NGBs of sport have strongly supported the scheme and it is hoped they will continue to do so.

Tax practitioners have an important part to play in supporting voluntary club officials who will have to grapple with the new rules and decide on CASC status. But be careful!