HM Revenue & Customs

Community Amateur Sports Clubs: changes to rules

Who is likely to be affected?

Sports Clubs that are registered, or are considering registering, with HM Revenue & Customs (HMRC) as Community Amateur Sports Clubs (CASCs); CASC members; companies that make donations to, or sponsor, CASCs.

General description of the measure

The measure introduces an updated set of the eligibility conditions that apply to all sports clubs which are registered, or wish to register, as CASCs. The exemptions for trading and property income will be increased. Corporate Gift Aid on gifts of money will be extended to include gifts to CASCs.

Policy objective

The original objectives of the CASC scheme were to increase and sustain sports participation, and address other priorities, in particular health, crime reduction, volunteering, community building and promoting social inclusion.

HMRC reviewed the original rules and guidance and concluded that some of the eligibility rules were difficult for both clubs and HMRC to apply correctly. As a result of HMRC's review, the Government decided to amend the rules. This measure makes the rules for CASCs simpler, by specifying more clearly the eligibility criteria for being registered as a CASC and encapsulates the original objectives.

Background to the measure

Schedule 21 to Finance Act 2013 amended the conditions which sports clubs must meet to be registered as CASCs. It introduced powers to bring in more detailed rules through regulations.

A public consultation on the new detailed rules, *Community Amateur Sports Clubs* was published on 3 June 2013 and closed on 12 August 2013.

A summary of responses to the consultation document, including the Government's response, was published on 25 November 2013 following a Written Ministerial Statement on the same day.

Detailed proposal

Operative date

The regulations making changes to the eligibility conditions and the order increasing the exemptions for trading and property income will be published in draft in early 2014.

The proposed extension of corporate Gift Aid to gifts to CASCs will have effect for gifts made on or after 1 April 2014.

Where there are abusive arrangements between a company controlled by a CASC and a member of the CASC, the amount of a qualifying donation will be restricted. Abusive arrangements occurring before 1 April 2014 will be taken into account in calculating the value of a qualifying donation that relates to the same accounting period.

Current law

The current legislation governing CASCs is contained in Chapter 9 of Part 13 of the Corporation Tax Act (CTA) 2010, as amended by Schedule 21 to Finance Act (FA) 2013.

Schedule 21 to FA 2013 allows the Treasury to change the eligibility conditions by regulations and to change the tax exemptions for CASCs by Order.

The legislation on corporate Gift Aid is contained in Chapter 2 of Part 6 of the CTA 2010.

Proposed revisions

Legislation will be introduced in Finance Bill 2014 to extend corporate Gift Aid on qualifying gifts of money to charities to gifts of money to CASCs.

The proposed regulations will amend the current eligibility conditions which apply to all CASCs to provide greater clarity and certainty. The proposed regulations will specify a maximum amount for costs associated with membership of a club, use of its facilities and full participation in its activities. They will also set a maximum upper limit that a club can charge in membership fees. CASCs will be allowed to pay players so long as the total payments made to all players in a year, including any benefits, are no more than £10,000.

Clubs will also be allowed to make travel and subsistence payments to players, subject to certain restrictions.

The regulations will also provide detailed rules on a new eligibility condition relating to the amount of social income a club can receive.

The maximum amount of receipts that a club can receive in order to qualify for the exemption from corporation tax on trading income will be increased from £30,000 to £50,000.

The maximum amount of receipts that a club can receive in order to qualify for the exemption from corporation tax on income from property will be increased from £20,000 to £30,000.

Summary of impacts

<table>
<tr><td rowspan="3">Exchequer impact (£m)</td><td>2013-14</td><td>2014-15</td><td>2015-16</td><td>2016-17</td><td>2017-18</td><td>2018-19</td></tr>
<tr><td>-</td><td>negligible</td><td>negligible</td><td>negligible</td><td>negligible</td><td>negligible</td></tr>
<tr><td colspan="6">This measure is expected to have a negligible impact on the Exchequer.</td></tr>
<tr><td>Economic impact</td><td colspan="6">The measure is not expected to have any significant economic impacts.</td></tr>
<tr><td>Impact on individuals and households</td><td colspan="6">Some individuals on lower incomes will find it is cheaper to participate in their chosen sport.</td></tr>
<tr><td>Equalities impacts</td><td colspan="6">No identified impacts on people with protected characteristics.</td></tr>
<tr><td>Impact on business including civil society organisations</td><td colspan="6">Clarification of the rules may mean that some new clubs find them easier to operate and therefore enter the regime. This measure is expected to have a negligible impact on businesses and civil society organisations. Some clubs may need to make changes to their structure or their operations in order to retain their CASC status. There are around 6,000 existing CASCs that may have limited one-off costs as a result of complying with the new rules.</td></tr>
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Operational impact (£m) (HMRC or other)	It is not expected that implementing these changes will incur any significant additional costs for HMRC.
Other impacts	Other impacts have been considered but none have been identified.

Monitoring and evaluation

The measure will be kept under review through communication with taxpayer groups affected by the measure. The Tax Information and Impact Note will be reviewed and updated, if necessary, when draft regulations are published in the new year.

Further advice

If you have any questions about this change, please contact Jo Shelling on 03000 585216 (email: joanne.shelling@hmrc.gsi.gov.uk).

1 Community amateur sports clubs

(1) Part 6 of CTA 2010 (charitable donations relief: payments to charity) is amended in accordance with subsections (2) to (7).

(2) In section 189 (relief for charitable donations), in subsection (5), after "subject to" insert "Chapter 2A of this Part,".

(3) In section 192 (conditions as to repayment), in subsection (6), omit the "and" at the end of paragraph (a) and after that paragraph insert—

"(aa) the repayment is not non-qualifying expenditure for the purposes of Chapter 9 of Part 13 (see section 661(5)), and".

(4) In section 200 (company wholly owned by a charity), after subsection (4) insert—

"(4A) In the case of a charity which is a registered club, ordinary share capital of a company is treated as owned by a charity if the charity beneficially owns that share capital."

(5) In section 202 (meaning of "charity"), before paragraph (b) insert—

"(aa) a registered club,".

(6) After that section insert—

"202A"Registered club"

In this Chapter "registered club" has the meaning given by section 658(6) (clubs registered as community amateur sports clubs)."

(7) After Chapter 2 insert—

"CHAPTER 2A

PAYMENTS TO COMMUNITY AMATEUR SPORTS CLUBS: ANTI-ABUSE

202B Restriction on relief for payments to community amateur sports clubs

(1) Subsection (2) applies if—

(a) one or more qualifying payments are made by a company to a registered club ("the club") in an accounting period ("the current period"),

(b) the company is wholly owned, or controlled, by the club or by a number of charities which include the club, for all or part of that period, and

(c) inflated member-related expenditure is incurred by the company in that period.

(2) For the purposes of section 189 (relief for qualifying charitable donations), the total amount of those qualifying payments is treated as

reduced (but not below nil) by the total amount of that inflated member-related expenditure.

(3) Subsection (4) applies, if—

(a) the total amount of that expenditure exceeds the total amount of those payments, and

(b) the company made one or more qualifying payments to the club in an earlier accounting period ending not more than 6 years before the end of the current period.

(4) For the purposes of section 189, the total amount of the qualifying payments made in the earlier accounting period is treated as reduced (but not below nil) by the amount of the excess.

(5) If subsection (3)(b) applies in relation to more than one earlier accounting period—

(a) subsection (4) applies to treat amounts paid in later accounting periods as reduced in priority to amounts paid in earlier ones (until the excess is exhausted or all amounts have been reduced to nil), and

(b) in applying subsection (4) in relation to an accounting period, the reference to the excess is to be read as a reference to so much of it as exceeds the total amount of qualifying payments which, under that subsection, have previously been reduced to nil by the excess.

(6) For the purposes of subsections (3) and (4), a reference to the total amount of qualifying payments made in an earlier accounting period is to the total amount of those payments after—

(a) any reduction under subsection (2), and

(b) any previous reduction under subsection (4).

(7) Such adjustments must be made (whether by way of the making of assessments or otherwise) as may be required in consequence of subsections (4) to (6).

(8) Section 200 (company wholly owned by a charity) applies for the purposes of this section.

(9) For the purposes of this section, the club controls the company if it has the power to secure—

(a) by means of the holding of shares or the possession of voting power in relation to the company or any other company, or

(b) as a result of any powers conferred by the articles of association or other document regulating the company or any other company,

that the affairs of the company are conducted in accordance with the club's wishes.

(10) For the purposes of this section two or more charities (including the club) control the company if, acting together, they have the power to secure, as mentioned in paragraph (a) or (b) of subsection (9), that the affairs of the company are conducted in accordance with the wishes of those charities.

(11) In this section—

"charity" has the same meaning as in Chapter 2,

"qualifying payment" means a qualifying payment for the purposes of Chapter 2, and

"registered club" has the same meaning as in Chapter 2,

and any reference to a member of the club includes a reference to a person connected with a member of the club.

202C "Inflated member-related expenditure"

(1) This section applies for the purposes of section 202B.

(2) "Inflated member-related expenditure" means—

(a) employment expenditure incurred in respect of the employment of a member of the club, by the company, where that employment is otherwise than on an arm's length basis, or

(b) expenditure incurred on a supply of goods and services to the club by—

(i) a member of the club, or

(ii) a member-controlled body,

otherwise than on an arm's length basis.

(3) But if the features of an employment or supply which cause it to be otherwise than on an arm's length basis, when taken together, are more advantageous to the company than if the employment or supply had been on an arm's length basis, any expenditure incurred in respect of the employment or on the supply is not inflated member-related expenditure.

(4) A company is "member-controlled" if a member of the club has (or two or more members acting together have) the power to secure—

(a) by means of the holding of shares or the possession of voting power in relation to that or any other body corporate, or

(b) as a result of any powers conferred by the articles of association or other document regulating that or any other body corporate,

that the affairs of the company are conducted in accordance with the wishes of the member (or, as the case may be, members).

(5) A partnership is "member-controlled" if a member of the club has or two or more members acting together have the right to a share of more than half the assets, or of more than half the income, of the partnership.

(6) In this section any reference to a member of the club includes a reference to a person connected with a member of the club.

(7) For the purposes of subsection (2)(a), the Treasury may by order specify—

(a) descriptions of expenditure which is to be treated as employment expenditure incurred in respect of the employment of a member of a club;

(b) descriptions of expenditure which is not to be so treated."

(8) Chapter 9 of Part 13 of that Act (other special types of company: community amateur sports clubs) is amended in accordance with subsections (9) to (12).

(9) After section 661D (but before the italic heading) insert—

"661E Tax treatment of gifts of money from companies

If a registered club receives a gift of a sum of money from a company which is not a charity, the gift is treated as an amount in respect of which the registered club is chargeable to corporation tax, under the charge to corporation tax on income.

But this is subject to section 664 (exemption for interest, gift aid income and gifts from companies)."

(10) In section 664 (exemption for interest and gift aid income)—

(a) in subsection (1), omit the "and" after paragraph (a) and after paragraph (b) insert ", and

(c) its company gift income for that period,",

(b) in that subsection, for "and gift aid income" substitute ", gift aid income and company gift income", and

(c) in subsection (3), after "this section—" insert—

""company gift income", in relation to a club, means gifts of money made to the club by companies which are not charities,".

(11) In section 665A (claims in relation to interest and gift aid income), in subsection (1)(b) for "and gift aid" substitute ", gift aid and company gift".

(12) Accordingly—

(a) in the italic heading before section 661D, omit "*qualifying for gift aid relief*",

(b) in the heading for section 664, for "**and gift aid**" substitute "**, gift aid and company gift**"

(c) in the heading for section 665A, for "**and gift aid**" substitute "**, gift aid and company gift**".

(13) The amendments made by this section have effect in relation to payments made on or after 1 April 2014.

(14) But the amendments made by subsections (1) to (7) are to be ignored for the purposes of section 199 of CTA 2010 (payment attributed to earlier accounting period) if the claim mentioned in subsection (1)(c) of that section is in respect of an accounting period ending before 1 April 2014.

(15) The earlier accounting periods mentioned in section 202B(3) of CTA 2010 (see subsection (7) of this section) do not include any accounting period ending before 1 April 2014.

EXPLANATORY NOTE

CORPORATE GIFT AID FOR COMMUNITY AMATEUR SPORTS CLUBS

SUMMARY

1. This clause introduces a new tax relief for the donation of company profits to Community Amateur Sports Clubs (CASCs). In substance, the measure would put the tax treatment of donation of company profits to CASCs on a par with donation of company profits to charity, known as Corporate Gift Aid for charities. An anti-abuse rule is inserted in Part 6 of the Corporation Act 2010.

DETAILS OF THE CLAUSE

General provisions

2. Subsection (1) introduces amendments to Part 6 (charitable donations relief) of the Corporation Taxes Act (CTA) 2010, the main provision covering gift aid tax relief of gifts of company profits to charities.

3. Subsection (2) amends section 189 (relief for qualifying charitable donations) to ensure relief for qualifying donations to CASCs is subject to the anti-abuse provisions in new Chapter 2A.

4. Subsection (3) amends section 192 (condition as to repayment), which applies where a subsidiary company makes a payment to its parent charity before the exact amount of its profits is known. Subsection (3) of clause 1 ensures that a repayment by a CASC of any excess payment to its subsidiary to adjust the company's taxable profits to nil will not be treated as non-qualifying expenditure. Non-qualifying expenditure of a CASC may be chargeable to tax under the provisions of section 666 (exemptions reduced if non-qualifying expenditure incurred) of CTA 2010.

5. Subsection (4) amends section 200 of CTA 2010, which sets out the conditions for a company to be regarded as wholly owned by a charity, by inserting new subsection (4A) which makes provision for CASCs with ordinary share capital.

6. Subsection (5) amends the meaning of 'charity' in section 202 for the purposes of Chapter 2, to include `registered clubs` as entities which qualify as charities. This enables the donation of money to CASCs by companies to rank as `qualifying payments` for company Gift Aid purposes.

7. Subsection (6) inserts new section 202A, which applies the definition of a `registered club` given by section 658(6) of CTA 2010 to Chapter 2 of Part 6. A 'registered club' is commonly known as a 'CASC'.

Anti-abuse provisions

8. Subsection (7) inserts new Chapter 2A, which provides new anti-abuse provisions aimed at discouraging abuse of companies owned or controlled by CASCs.

9. New section 202B (1) (restriction on relief for payments to community amateur sports clubs) sets the conditions where the new anti-abuse provision would apply and introduces the concept of ‘inflated member-related expenditure’, which is defined at new section 202C.

10. Where a company, which is owned or controlled by a CASC, incurs inflated member-related expenditure, new section 202B (2) reduces (but not below nil) the amount of a qualifying payment by the company to its parent CASC that qualifies for tax relief. The amount of the reduction is the total amount of the inflated member-related expenditure or, if less, the amount of the qualifying payment. The effect of this provision is to bring back into the charge to corporation tax the amount of the inflated member-related expenditure.

11. New section 202B (3)-(7) deals with the situation where the amount of inflated member-related expenditure referred to in new section 202B (2) is greater than the qualifying payment made in the same accounting period. In that case any excess inflated member-related expenditure can be carried back to adjust qualifying payments in earlier years for up to six years. The excess expenditure is set off against qualifying payments made by the company starting from the latest year and working back.

12. The commencement provision at subsection (15) of clause 1 prevents adjustments being made in accounting periods ending before the general commencement given by subsection (13).

13. New section 202B (8) to (11) provide a number of definitions for the purposes of new section 202B In particular new subsections (9) and (10) explains when a company is controlled by a club or two or more charities (including the club) for the purposes of the anti-abuse rule.

14. New section 202C (2) defines in paragraphs (a) and (b) the two situations in which expenditure incurred by a company is `inflated member-related expenditure`.

15. The situation in paragraph (a) is that expenditure on the employment of a member of the club by the company is not at arm’s length. New section 202C (7) enables HM Treasury to provide, by Order, what counts as ‘employment-related’ expenditure for this purpose.

16. The situation in paragraph (b) is that expenditure on the supply of goods and services to the club by a member or member-controlled body is not on an arm’s length basis.

17. New section 202C(3) provides that where the expenditure, taken as a whole, is beneficial to the company rather than to the third party then that expenditure will not fall within the definition of ‘inflated member-related expenditure’.

18. New section 202C (4) and (5) explain the meaning of `member-controlled` for the purpose of section 202C (2).

19. New section 202C (6) provides that a reference to a member of the club includes a reference to a person connected to a member.

Donations from companies to CASCs

20. Subsection (8) introduces amendments to Chapter 9 of Part 13 (community amateur sports clubs) to include donations from companies within the tax relief provisions for CASCs.

21. Subsections (9) and (10) set the tax treatment of gifts of money to CASCs by companies. Subsection (9) inserts new section 661E, which brings gifts of money by companies into the charge to corporation tax. Subsection (10) amends section 664 (exemption for interest and gift aid income) to relieve a gift of money by a company, referred to as ‘company gift income’, from the charge to corporation tax so long as the payment is used for qualifying purposes.

22. Subsections (11) and (12) make consequential amendments to reflect the changes brought about by this clause.

23. Subsection (13) provides that the amendments made in this clause have effect in relation to payments made on or after 1 April 2014.

24. Subsection (14) provides that the amendments enabling corporate gift aid for CASCs are to be ignored for the purposes of section 199 (payment attributed to earlier period) where the company makes a claim for the payment to be treated as a qualifying payment for an earlier accounting period ending before 1 April 2014. This prevents a company attributing a qualifying payment made under the new provisions to an accounting period ending before 1 April 2014.

25. Subsection (15) provides that the restriction on relief for payments to CASCs in earlier accounting periods under new section 202B (3) (where there is ‘inflated member-related expenditure’) does not apply in respect of accounting periods ending before 1 April 2014.

BACKGROUND NOTE

26. This clause extends the scope of tax relief available to companies that give money to CASCs allowing them to foster greater involvement in community sporting activity.

27. The clause includes anti-abuse provisions to deter CASC members from obtaining a financial advantage from a company owned by a CASC. The anti-abuse provisions hinge on the new concept of `inflated member-related expenditure`. The following examples show how this concept operates.

Example 1

28. A company, owned and controlled by a CASC buys supplies from one CASC member and rents property from another. Both of the payments are more than what would be expected under an arm's length arrangement. As a result CASC members benefit financially to the detriment of the company and its parent sports club.

29. In the Accounting Period Ended [APE] 31.01.16, the subsidiary incurred total costs of £37,500 and £12,500 for the supply of sporting equipment and rent, respectively.

30. In respect of the same APE the subsidiary made a qualifying gift of its entire net profit of £75,000 to the CASC.

31. Because neither of the arrangements was at arm's length the value of the qualifying gift would be reduced by £50,000 (37,500 + £12,500).

32. Accordingly, the subsidiary would become liable to pay corporation tax in respect of an APE 31.01.16 profit of £50,000, rather than nil, despite the company donating its entire net profit to the CASC.

Example 2

33. A contract agreed between a CASC controlled company and a CASC member provides for two supplies for a total figure of £100,000. An arm's length transaction would have cost £25,000 for each supply It is impossible to know how the £100,000 is allocated to each supply in this case therefore, the whole of the £100000 will be treated as Inflated Member Related Expenditure.

34. If you have any questions about this change, or comments on the legislation, please contact David McDowell on 03000 585284 (email: david.mcdowell@hmrc.gsi.gov.uk).