

Chapter 1: Community amateur sports clubs

Overview

1. This Chapter provides for the registration of community amateur sports clubs and exemptions from tax of registered clubs. It is based on Schedule 18 to FA 2002.
2. Paragraph 9 of that Schedule has not been rewritten in this Chapter.
3. Paragraph 9(1) is merely a signpost to Chapter 2 of Part 8 of ITA (gift aid) which treats a registered club as a charity (see section 430 of ITA). Paragraph 9(1) is not rewritten as it is unnecessary.
4. Paragraph 9(3)(a) provides that section 83A of ICTA (gifts in kind to charities etc) has effect as if a registered club were a charity. Section 83A of ICTA is rewritten in Bill 5 and the rewritten clause includes provision that it applies to a registered club. Paragraph 9(3)(a) will as a consequence be repealed.
5. The remaining provisions of paragraph 9 are rewritten in this Bill by amending the provisions of IHTA, TCGA and CCA to which they cross-refer. See Schedule 1.
6. The commentary uses a number of abbreviations. They are listed below.

CAA	the Capital Allowances Act 2001
FA 2002	Finance Act 2002 (and similarly for other Finance Acts)
ICTA	the Income and Corporation Taxes Act 1988
IHTA	the Inheritance Tax Act 1984
ITA	the Income Tax Act 2007
TCGA	the Taxation of Chargeable Gains Act 1992

Clause 1: Meaning of “community amateur sports club” and “registered club”

7. This clause sets out the three qualifying conditions which must be met for a club to be entitled to be registered as a community amateur sports club and be able to obtain an exemption from tax on relevant income or gains. It is based on paragraphs 1, 11(1) to (3) and (5) and 15(2) of Schedule 18 to FA 2002.
8. In *subsections (2) to (4)* there are references to “an officer of Revenue and Customs”. This is a change from the source legislation in Schedule 18 to FA 2002 where the references are to “the Inland Revenue”. See *Change 1* in Annex 1.

Q1. We welcome comments on the proposal to replace the words “the Inland Revenue” with the words “an officer of Revenue and Customs”.

9. There is also a change in the words used in *subsection (5)* which concerns the publication of the names and addresses of clubs. In this case the change is to replace a reference to “Inland Revenue” in the source legislation with a reference to “Her Majesty’s Revenue and Customs”. See *Change 1* in Annex 1.

Q2. We welcome comments on the proposal to replace the words “the Inland Revenue” with the words “Her Majesty’s Revenue and Customs”.

Clause 2: Meaning of “open to the whole community”

10. This clause defines the term “open to the whole community”, which is the first of the qualifying conditions for being a registered club. It is based on paragraph 2 of Schedule 18 to FA 2002.

Clause 3: Meaning of “organised on an amateur basis”

11. This clause defines the term “organised on an amateur basis”, which is the second of the qualifying conditions for being a registered club. It is based on paragraph 3 of Schedule 18 to FA 2002.

12. This clause does not rewrite the requirement in paragraph 3 of Schedule 18 to FA 2002 for certain formalities to apply if a club member supplies goods or services to the club or is employed by the club. See *Change 2* in Annex 1.

Q3. We welcome comments on the proposal to remove the requirement for certain formalities to apply if a club member supplies goods or services to a club.

Clause 4: Meaning of “eligible sport”, “qualifying purposes” etc

13. This clause sets out the definitions of “eligible sport”, “qualifying purposes”, “non-qualifying purposes” and “non-qualifying expenditure” specific to this Chapter. It is based on paragraphs 8(1) and (7), 14(1) and 16 of Schedule 18 to FA 2002.

14. There is an additional definition for “non-qualifying expenditure” which was implicit in the source legislation but which has now been made explicit in the rewritten legislation.

15. This clause omits the provision in paragraph 14(2) of Schedule 18 to FA 2002 that a Treasury order designating a sport as an “eligible sport” is subject to annulment in pursuance of a resolution of the House of Commons. That provision is unnecessary as Bill 6 will contain general provisions to the same effect governing orders and regulations made by the Treasury or the Commissioners for Her Majesty’s Revenue and Customs.

Clause 5: Exemption for UK trading income

16. This clause provides for the trading income of a registered club to be exempt from tax if the relevant conditions are met. It is based on paragraph 4 of Schedule 18 to FA 2002.

17. *Subsection (4)* provides that where a club is a registered club for only part of an accounting period, that part is treated as a separate accounting period and the club's trading income and receipts for that separate period are proportionately reduced.

18. *Subsection (5)* provides for a proportionate reduction of "the relevant threshold" where an accounting period is less than 12 months.

19. This approach in both subsections follows that of the source legislation. We are intending to propose a change that will instead apply a formula that will always be based on 365 days, irrespective of the length of the calendar year. This change will follow change 652 proposed in Paper CC/SC(07) 43 (Bill 6: Special rules about charitable companies etc) published on 7 November 2007. As there will be other provisions of this sort in the Bill, it has been decided to handle this as a Bill wide issue and to present an overall picture when the draft Bill is published for consultation in 2009.

20. In *subsection (6)* reference to "income of a trade carried on wholly or partly in the United Kingdom" is substituted for the reference in paragraph 4(4) of Schedule 18 to FA 2002 to income chargeable under Schedule D Case 1. This preserves the distinction from trades carried on wholly outside the United Kingdom (currently charged under Schedule D Case V) and is necessary because of the approach adopted in relation to income from both UK and foreign trades in the trading income part of Bill 5.

Clause 6: Exemption for UK property income

21. This clause provides for the property income of a registered club to be exempt from tax if the relevant conditions are met. It is based on paragraph 6 of Schedule 18 to FA 2002.

22. There is a provision in *subsections (4) and (5)* for the proportionate reduction of "the relevant threshold" where an accounting period is less than 12 months. The same change applying a formula based on 365 days, mentioned in the commentary on clause 5, is also proposed for this clause.

23. In *subsection (6)* reference to "income of a UK property business" is substituted for the reference in paragraph 6(4) of Schedule 18 to FA 2002 to income chargeable under Schedule A. This preserves the distinction for income from land outside the United Kingdom (currently charged under Schedule D Case V) and is necessary because of the approach adopted in relation to income from both a UK

property business and an overseas property business in the property income part of Bill 5.

Clause 7: Exemption for interest and gift aid income

24. This clause provides for the interest and gift aid income of a registered club to be exempt from tax if the relevant conditions are met. It is based on paragraph 5 of Schedule 18 to FA 2002.

25. *Subsection (2)* provides that where a club is registered for only part of an accounting period, that part is treated as a separate accounting period and the club's interest income for that separate period is proportionately reduced. This approach follows that of the source legislation. The same change applying a formula based on 365 days as was mentioned in the commentary on clauses 5 and 6 is also proposed for this clause.

26. In *subsection (3)* reference to interest which is not brought into account under the trading income part of Bill 5 is substituted for the reference in paragraph 5(3) of Schedule 18 to FA 2002 to interest chargeable under Schedule D Case III. That provision of Bill 5 distinguishes income from non-trading loan relationships (currently charged under Schedule D Case III) from income from trading loan relationships (currently charged under Schedule D Case I).

27. In *subsection (3)* the definition of "gift aid" now relies on Chapter 2 of Part 8 of ITA 2007 rather than section 25(10) of FA 1990 (see paragraph 5(3)(b) of Schedule 18). Paragraph 5(4) of that Schedule is not now necessary because section 430 of ITA 2007 itself includes CASCs within the definition of charities for the purposes of gift aid.

Clause 8: Exemption for chargeable gains

28. This clause provides for the chargeable gains of a registered club to be exempt from tax. It is based on paragraphs 7 and 16 of Schedule 18 to FA 2002.

Clause 9: Exemptions reduced if non-qualifying expenditure incurred

29. This clause provides for exemptions to be restricted if the club incurs expenditure for non-qualifying purposes. It is based on paragraph 8 of Schedule 18 to FA 2002.

30. The reference to "income receipts" which includes "income (whether taxable or not and before deduction of expenses)" replaces the reference in paragraph 8.

31. Paragraph 8(5) of Schedule 18 to FA 2002 provides a formula to ascertain the relevant surplus amount of non-qualifying expenditure. This has now been unpacked and set out in narrative form.

Clause 10: Rules for attributing relevant surplus amount to earlier periods etc

32. This clause supplements clause 9. It is based on paragraph 8(5) to (8) of Schedule 18 to FA 2002.

Clause 11: How income and gains are attributed

33. This clause provides that a club may specify or be required to specify how the exempted income and gains are to be reduced in accordance with clause 9. It is based on paragraphs 8(9) and 15(1) of Schedule 18 to FA 2002.

Clause 12: Asset ceasing to be held for qualifying purposes etc

34. This clause provides that the exemption for chargeable gains on assets is not available if the club ceases to be registered or to hold the asset for qualifying purposes. It is based on paragraphs 10 and 16 of Schedule 18 to FA 2002.

35. Paragraph 10 of Schedule 18 to FA 2002 refers to “property” but TCGA refers to disposals of “assets”. Consequently, the clause refers to disposals of “assets” for the purposes of that Act rather than disposals of “property”.

36. *Subsections (5) and (6)* separate and clarify the process for making assessments and the time limit for doing so. These were previously dealt with together in paragraph 10(3) of Schedule 18 to FA 2002.

Clause 13: Application for registration and notification of HMRC decision

37. This clause sets out the requirement for the provision of information supporting a club’s application for registration, and the notification of the decision by Her Majesty’s Revenue and Customs. It is based on paragraphs 11(4) and 12 of Schedule 18 to FA 2002.

38. *Subsection (1)*, which is based on paragraph 12 of Schedule 18 to FA 2002, refers to the inspection of “records”. This expression is defined in *subsection (3)* to include books and documents.

39. In *subsection (2)* the reference to “an officer of Revenue and Customs” replaces the reference in the source legislation to “the Inland Revenue”. See *Change 1* in Annex 1.

<p>Q4. We welcome comments on the proposal to replace the words “the Inland Revenue” with the words “an officer of Revenue and Customs”</p>
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Clause 14: Appeals

40. This clause sets out the provisions relating to appeals against decisions concerning a club’s application or registration. It is based on paragraphs 13 and 15(2) of Schedule 18 to FA 2002.

41. In *subsections (1), (5) and (6)* references to “an officer of Revenue and Customs” replace the references in the source legislation to “the Inland Revenue”. See *Change 1* in Annex 1.

Q5. We welcome comments on the proposal to replace the words “the Inland Revenue” with the words “an officer of Revenue and Customs”

Schedule 1 - Minor and consequential amendments

42. References in the consequential amendments in this Schedule to Chapter 4 of Part 10 of Bill 6 are to the provisions on community amateur sports clubs.

Inheritance Tax Act 1984

Section 23

43. This amendment extends the relief given by section 23 of IHTA (gifts to charity) to gifts to a registered club. It is based on paragraph 9(2) of Schedule 18 to FA 2002.

Taxation of Chargeable Gains Act 1992

Section 257

44. This amendment extends the relief given by section 257 of IHTA (gifts to charities etc) to gifts to a registered club. It is based on paragraph 9(3) of Schedule 18 to FA 2002.

Capital Allowances Act 2001

Section 63

45. This amendment provides that section 63(2) of CAA, which provides that the disposal value of plant and machinery disposed of by way of gift to a charity or certain other bodies is nil, also applies to a gift to a registered club. It is based on paragraph 9(3) of Schedule 18 to FA 2002.

Annex 1

Change 1: References to “officer of Revenue and Customs”: clauses 1, 13 and 14

This change replaces references to the “Board of Inland Revenue” in the source legislation with references to “an officer of Revenue and Customs”.

It brings the income and corporation tax codes back into line.

References in the source legislation to the “Board of Inland Revenue” are treated by section 50(1) of the Commissioners for Revenue and Customs Act 2005 (CRCA) as references to “the Commissioners for Her Majesty’s Revenue and Customs”. The rest of this note accordingly refers to the Commissioners for Her Majesty’s Revenue and Customs (“the Commissioners”) rather than to the Board of Inland Revenue.

The provisions affected by this change will in future authorise or require things to be done by or in relation to an officer of Revenue and Customs rather than by or in relation to the Commissioners. This reflects the way in which Her Majesty's Revenue and Customs is organised and operates in practice. Section 13 of CRCA allows nearly all functions conferred on the Commissioners to be exercised by any officer. All of the functions affected by this change, which are in the main concerned with administrative processes, are in fact exercised by officers of the Commissioners, and the Commissioners themselves are not personally involved in their exercise.

Where the source legislation provides for a claim or election to be made to the Commissioners, this Bill does not expressly state to whom such a claim or election is to be made. Where a notice to deliver a corporation tax return has been issued paragraphs 57 and 58 of Schedule 18 to FA 1998 require the claim to be made in the return or by amendment of the return if possible. A return must be made to the officer who issued it. A notice amending a return must be made to an officer. Similarly, where the claim is made outside a return or amendment, paragraph 2(1) of Schedule 1A to TMA requires the claim to be made to an officer.

Each provision affected by the conversion of references to the Commissioners will be identified in the Table of Origins to the Bill by a cross-reference to this change.

This change has no implications for the amount of tax due, who pays it or when. It affects (in principle and in practice) only administrative matters.

Change 2: Receipt of club benefits by members: arm's length agreements for employment or for goods or services: clause 3

This change removes certain formalities which apply where a club member supplies goods or services to the club or is employed by the club and the club wishes to satisfy the requirements for tax exemptions.

In order to qualify as an amateur sports club paragraph 3(1) of Schedule 18 to FA 2002 requires that only the ordinary benefits of a community amateur sports club can be provided to members and guests. Those benefits are set out in paragraph 3(3) of Schedule 18. A club's powers are thus restricted to the actions which allow them to provide those benefits to their members. Paragraph 3(4) of Schedule 18 however makes provision for clubs to enter into agreements to pay for goods or services or to pay remuneration to a member and to continue to satisfy the requirements for exemption. The main rule is that where there are such agreements with members then they must be at arm's length.

Paragraph 3(4) also imposes the condition that the terms of such agreements with the member should be approved by the club's governing body without the member concerned being present. In practice HMRC do not enforce this rule, being only concerned that the agreement is at arm's length. This change omits these formalities in the rewritten clause. This means that the only requirement is that the agreement

should be at arm's length. This does not, of course, exclude the necessity for evidence demonstrating that the agreement is at arm's length.

This change is in taxpayers' favour in principle. But it is expected to have no practical effect as it is in line with current practice.