Corporation Tax and Football

Deloitte.

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Introduction

Football clubs, whether operating through a company or an unincorporated association, may find themselves liable to pay corporation tax. Many clubs are unaware of their obligations and responsibilities, and this brochure is designed to increase awareness and give guidance on some of the issues which clubs are likely to face.

Need for tax planning

Whilst it remains the case that the majority of clubs are loss making, corporation tax planning can be as relevant to them as the profit making clubs. There are a number of reasons why corporation tax planning should be considered as a matter of course:

- With the increased commerciality of the game and resultant increased revenues, clubs which were formerly loss making are now in a profit making position, possibly resulting in corporation tax liabilities.
- Some loss making clubs may be part of a group of companies. It is possible to surrender the club's losses for offset against the taxable profits of other group companies and thereby defer or save tax.
- Where a club is being financed by an individual or a group of individuals, it may be tax advantageous to structure such an investment through a profit making company owned by each individual. In this way the losses of the club can be used by such profit making companies.
- Losses from football activities (trading losses) can be set off against other income (including capital gains on disposal of land) in the year in which the losses were incurred. It is possible to carry back unrelieved losses against income and capital gains of the previous accounting period. Trading losses carried forward can only be offset against future trading income.
- Since transfer fees paid can no longer be fully expensed as incurred (the cost of a new player's registration is spread over the period of the new player's contract), it is now more difficult to shelter the profit on disposal of a player by re-investing in another player.
- With the increasing sums and various sources of funding involved, it is becoming increasingly important for football clubs to prepare budgets of their income and expenditure, incorporating adequate provision for corporation tax.

Scope of corporation tax

The fact that your club may not be incorporated will not prevent corporation tax being due on profits and income, since corporation tax applies not only to companies (whether limited by share capital or by guarantee) but also to unincorporated associations (which a number of smaller clubs are). It is often not appreciated that unincorporated associations are required to pay corporation tax in the same way as limited companies. In the top leagues (clubs in the FA Premiership, the Football League and the Football Conference) the clubs are incorporated. In the feeder leagues there are clubs which will exist as unincorporated associations.

The Inland Revenue have published two guidance leaflets which you may find useful:

- A General Guide to Corporation Tax Self Assessment (CTSA/BK4)
- Clubs, societies and associations (IR46), specifically to assist clubs.

Copies are available from tax offices or on the web at http://www.inlandrevenue.gov.uk.

Taxable income is likely to include the following:-

- interest income;
- income from investments, whether taxed at source or not;
- income from property;
- sponsorship income or licence fees;
- trading income; e.g. gate receipts and central distributions from television income etc.
- fundraising income;
- income from lotteries, raffles and prize draws (see the brochure "The Taxation of Football Club Lotteries");
- profits on the sale of capital assets, including land.

Some clubs will have fallen through the tax net in the past, even though they may have had taxable income. Beware! It is your responsibility to report income and gains to the Inland Revenue, and if you do not you may find that you are liable to pay interest and penalties. Indeed, the Inland Revenue is likely to try to go back and collect tax due from the past. It should be noted that even if the club has losses, it is still obliged to file an annual corporation tax computation and return. Clubs which are not up-to-date in this regard should take action immediately.
The Inland Revenue will often argue that tax should be paid for the last six years if tax is due for the current year.

For those clubs that have been submitting their accounts and paying tax on their investment income to the Revenue, such an approach should be strongly resisted. Where details of income have been fully disclosed to the Revenue in the accounts and they have collected tax on investment income it is arguable that they do not have the right to go back to prior years (see Scorer vs. Olin Energy Systems Ltd and Inland Revenue Statement of Practice 8/91). In any event clubs should negotiate very hard with the Inland Revenue and seek to minimise what is taxable and maximise any tax deductible expenditure. Calculating the liability to corporation tax can be complex. There are a number of areas where professional advice can be extremely helpful, in particular in respect of the tax implications of the sale of ground, sale and leaseback arrangements and the like. These are areas in which careful planning can reduce or even eliminate the club's liability to corporation tax.

What constitutes taxable profits

The UK tax system is based on a series of income categories, each of which has its own rules and which separately identifies income sources such as those listed on page 2. The profits of each income source are computed according to the particular rules of that schedule, and the total profits from all schedules are charged to corporation tax. Clubs are likely to be taxed on the various income sources identified in chapter 2 above.

You are likely to have a liability to corporation tax if your club is deemed to be carrying on a taxable trade. The typical income from a football club trade would include gate receipts, sponsorship income, catering and hospitality income and the like. The treatment of these income sources is discussed later in 'Sources of income'.

You may be fortunate, although it is unlikely, to be exclusively a members' club, in which case, you may escape tax under the mutual trading principle, whereby tax is not due on transactions with members. In practice, most clubs have transactions with both members and non-members. It is unlikely that many clubs would be eligible to benefit from the mutual trading exemption from corporation tax and so it is not considered further in this brochure. Certain income may fall outside the tax net altogether, for example donations from unconnected third parties. Such payments are unsolicited and should be tax-free. If, however, your club is providing something in return, say, for example, advertising rights, then the "donations" are unlikely to be tax free and will constitute taxable sponsorship income. Appendix 1 contains examples of taxable and non-taxable income.

Clubs should note that they will be liable to pay corporation tax on gains from any capital transactions, such as the sale of land and buildings. Such tax may be deferred if proceeds are reinvested in full or in part in other qualifying capital assets under the rollover relief provisions.

Certain expenses are deductible in arriving at taxable profits for particular sources, as will be seen in the next section.

Deductions from taxable profits

Tax deductions are available for two different types of expenses in arriving at taxable profits: expenses deductible when incurred against the particular source of income involved and charges on income, which are deductible against total profits, but only when paid.

Where you are carrying on a trade, you will normally be able to deduct expenditure which has been incurred wholly and exclusively for the purposes of that trade. There are exceptions, e.g. business entertaining and expenditure of a capital nature (see below).

Apart from trading income, clubs may have property income against which they can offset certain expenditure connected with the property. Usually, this will include the following costs:-

- maintenance, repairs, insurance and management costs;
- interest paid on the property (in certain circumstances);
- rates or ground rents;
- allowances for wear and tear (in certain circumstances).

Tax relief is not generally available on capital expenditure unless the items purchased qualify for tax relief under the capital allowances rules. Where the club carries on a trade, expenditure on plant and machinery qualifies (e.g. furniture, computer equipment, tractors, mowers and cars). The relief is given against trading income by way of a writing-down allowance at the rate of 25% per annum on a reducing balance basis. In the case of small or medium sized companies (defined by reference to Companies Act definitions – see Appendix 3) plant and machinery expenditure qualifies for a 40% first year allowance (FYA) with a 25% writing-down allowance on the balance in subsequent years. The rate of FYAs for small businesses has been increased from 40 per cent to 50 per cent for a

period of one year. The increase applies to spending incurred on or after 1 April 2004. The allowance on a car is limited to £3,000 in any year. Expenditure on buildings will not normally qualify for relief (but see below).

It should also be noted that expenditure by small companies (see Appendix 3 for definition) on information and technology equipment (computers, software etc) will qualify for 100% allowances for the four years up to 31 March 2004. Businesses can also claim 100 per cent FYAs on expenditure incurred between 17 April 2002 and 31 March 2008 on new cars with CO_2 emissions not exceeding 120 gm/km.

Relief is available for payments to charity under the Gift Aid rules. It is no longer necessary to deduct income tax at source from such payments.

Tax rates

The starting rate of corporation tax of 0% for companies with taxable profits between £nil and £10,000 has been in effect from 1 April 2002 (previously 10%).

It should be noted that the 2004 Finance Act introduced new rules regarding the tax treatment of small incorporated business, affecting companies or groups with profits chargeable to corporation tax below £10,000 who make distributions to non-company shareholders. Company profits paid out as distributions (usually dividends) to non-company shareholders will be subject to a minimum rate of corporation tax of 19%. The new minimum rate will apply to profits that are distributed to persons other than companies on or after 1 April 2004. The minimum rate will not apply to distributions made to other companies. There will be special rules to cover groups and to cover the situation where distributions in an accounting period exceed the profits of that accounting period, and you would be well advised to seek professional advice in this situation.

Taxable profits falling in the band between £10,001 and £50,000 will be charged at a marginal rate of 23.75%.

A reasonable proportion of smaller clubs and organisations will find that they pay tax at a rate of 19% (the small companies rate was cut from 20% to 19% in the 2002 Finance Act), since their profits will fall within the small companies lower profit limit, which currently stands at £300,000.

Taxable profits which fall in the band between £300,000 and £1,500,000 (the upper limit) are taxable at the marginal rate of 32.75%.

Profits over the upper limit are taxed at 30%.

The lower and upper limits for small companies rate may be reduced if there are other bodies which are connected to the club or organisation.

No tax will be payable in respect of dividends received from UK companies, since these are exempt from tax. The requirement to account for advance corporation tax on dividends was abolished from 1 April 1999.

The corporation tax payable by a football club for its financial year ended 31 December 2004 with the following financial results is shown below:

- Loss from football activities - £5,000
- Gross bank interest of £1,000 (that is, with no tax taken off by the bank)
- Net building society interest of £480 (that is, £600 less tax of £120 (20%) taken off by the building society)
- Income from property of £60,000 after allowing expenses (such as repairs).

The football club will have to pay corporation tax due on

	£
Bank interest of	1,000
Building society interest of	600
Income from property of	60,000
	61,600
Losses from football trade	(5,000)
Total taxable profits	56,600

Financial year			
2003 to 31/3/2004			£
£56,600 x 90/365	=	£13,956 x 19%	2,651.67
2004 to 31/12/2004			
£56,600 x 275/365	=	£42,644 x 19%	8,102.33
			10,754.00
Less tax taken off the building society interest			(120.00)
Corporation tax to pay			10,634.00

Payment of tax

The introduction of self assessment has changed the date on which corporation tax is payable. Self-assessment applies for accounting periods ending on or after 1 July 1999; under this regime corporation tax may need to be paid in quarterly instalments.

For most companies, the payment of Corporation Tax is due nine calendar months and one day after the end of the accounting period. This is known as the 'Normal Due Date'.

The quarterly instalment payments requirement affects so-called 'large' companies. Broadly speaking, these are companies with annual taxable profits in excess of £1,500,000. Generally, the threshold will be divided by the number of active group companies where the club is a member of a tax group.

For accounting periods ending on and after 1 July 2002, 100% of the liability is payable by instalments. For twelve month periods, instalments are due on the 14th day of the seventh, tenth, thirteenth, and sixteenth month after the start of the accounting period.

Where the club has a short or extended accounting period, then this will have an impact on payment dates. The detailed rules with regard to the determination of payment dates would need to be considered in such an instance.

The instalments are based on estimated current year corporation tax liabilities. This is unfortunate as it would have been preferable to base payments on the prior year's liability with a balancing payment some months after the year end. This would have reduced the inherent uncertainty in estimating tax liabilities part way through the year. This particularly affects those clubs who might sell a player for a substantial transfer fee in the latter part of the season. Clubs must calculate the correct quarterly payments to make based upon the most up-to-date forecast of profits and ensure that they are paid on the right day as interest will accrue on any late paid tax. Each quarter's tax calculation should be adequately documented on file in order to support the calculation of the payment made.

There is no longer advance corporation tax (ACT) payable on dividends paid after 5 April 1999 as noted above, although unpaid ACT brought forward may still be offset subject to restrictions.

The following are typical instances which will make it difficult to estimate year end profits:

- if a club incurs expenditure on plant and machinery, capital allowances will be available to be claimed. However the date when the expenditure is incurred (which determines entitlement to allowances) may well be unclear;
- where profits fluctuate because of, for instance, transfer fees, it will always be particularly difficult to anticipate the likely out turn;
- most clubs will find it difficult to estimate in advance their year end accounts provisions;
- the unanticipated disposal of an asset late in an accounting period which produces a large chargeable gain will entail significant initial underpayments.

If payments are made late or if at the end of the period it is apparent that tax has been underpaid, then interest will be charged from the instalment dates. This interest will be deductible for tax purposes. There will also be interest paid by the Inland Revenue (at a lower rate than that applying to underpayments) on corporation tax overpaid by the company, which will be taxable.

A facility for UK groups to pay corporation tax on a group-wide basis exists. This enables tax overpaid by one company to be allocated against another group company's underpayment and so has the benefit of reducing interest accruing on underpayment.

Self assessment

The fundamental change from the predecessor ('pay and file') to self assessment is the obligation on the club to make its own self assessment of its corporation tax liability as part of its return. Further, the Inland Revenue has the power to inquire into any tax return within twelve months of the filing date and to obtain access to all company records. The Inland Revenue has re-issued its guide for corporation tax and dates which emphasises a club's responsibilities to file its return unprompted.

Paying the tax

The time limits for payment(s) of tax have been discussed in 'Payment of tax' above.

Filing the return

Clubs also need to file the tax return form (CT600), within twelve months of the end of the accounting period in order to avoid any potential late filing penalties. Tax returns are not normally required for dormant companies but this should be confirmed with your local tax office. You should also note, the 2004 Finance Act introduced a new time limit for notifying the Inland Revenue of a new

company, or the reviving of a dormant company, within three months of the start of the accounting period

The CT600 must be submitted along with a copy of the accounts for the period covered by the return, and a copy of the tax computation which indicates how the entries disclosed on the tax return have been calculated.

The CT600 form would normally be signed by the club secretary, treasurer or finance director.

It is important to ensure that the return is completed correctly, or the return is likely to be rejected by the Revenue.

There are two versions of the return; a short version and a long version. The short version is available where:-

- each individual figure in the return is less than £10 million, and
- the only items of income and expenditure are those covered by the short return,

Only the relevant sections of the return need be completed. If pages are not relevant, they may be detached. The front page of the return has a section which is to be completed, indicating the pages that have been submitted.

Corporation Tax (CT) Online

Companies and agents can now use the Inland Revenue online facility to file Company Tax returns over the Internet, and view up-to-date position on liabilities & payments.

Filing of accounts

As an aside, all companies have to submit some form of accounts to Companies House. In most cases, small and medium companies (appendix 3) are entitled to take advantage of various disclosure exemptions saving both time and costs involved with financial statements preparation.

Accounts don't have to be audited if you qualify as a small company (the increase in the company turnover and balance sheet totals threshold for the purposes of the audit exemption take effect in relation to year ends on or after 30 March 2004). You can still submit audited accounts if you wish, but it is not compulsory.

You should also note the under the Football Association "Rules of The Association and Laws of the Game", clubs are required to "prepare an annual Financial Statement in such form as shall be published by The Football Association from time to time". For example, clubs in the Football League must forward a copy of their audited Accounts and Balance Sheet to the Executive each year, not later than ten months from the end of the Club's financial year. You should check the specific rules in relation to your own league.

You should also seek advice from your professional advisor in relation to statutory accounts and audit exemptions.

Transfer pricing

Transfer pricing concerns the terms that connected parties (such as companies in the same group) adopt when they conduct business with each other. Previously, the legislation has required that cross border trading and financial transactions between affiliated entities should be conducted according to the arm's length standard. This means that the terms and pricing of any such transactions should be the same as if the transactions had been between completely independent parties.
The previous transfer pricing regime was challenged in the European court. This was on the grounds that it only applied to overseas companies and not UK companies and was therefore discriminatory. Therefore, in the 2004 Finance Act the rules were extended to include transactions within the UK. There rules also contain provisions covering the requirement to keep documentation covering a group's transfer pricing methodology.
These changes apply in relation to the calculation of profit that arises on or after 1 April 2004.
However, there are exemptions for small and medium enterprises (see appendix 4). Please note, the definition for transfer pricing purposes differs to that used for capital allowances.
The rules regarding transfer pricing are complex and many clubs are likely to be in a position take advantage of certain exemptions. You would be well advised to seek professional advice on this subject.

Sources of income

Over the years football has become increasingly commercial, with revenue from advertising and sponsorship increasing at all levels. It is now common for clubs, even the smaller clubs to be sponsored, as this is one of many ways in which they can raise funds.

Sponsorship and sponsorship in kind

Sponsorship income is taxable, whether it is received in cash or in kind.

Sponsorship in kind is strictly taxable. If, for example, your club receives clothing or other products from sponsors, then these should be valued at market value in your accounts and taxed accordingly, usually subject to a deduction for the cost of using the product in the business. Often, in practice, this is not done. The Inland Revenue are likely to ask about any "in-kind" sponsorship income.

Prize draws, raffles and lotteries

Smaller clubs may run prize draws, raffles and lotteries as a means of generating vital income. Firstly, treasurers and officers should be aware that these are governed by the Lotteries and Amusements Act 1976 (the Act) as amended. A society wishing to promote a lottery must itself be registered with the appropriate local authority or the Gaming Board but the society must register with the Board if:

- the total value of tickets or chances to be put on sale in any lottery is to exceed £20,000; or
- the total value of tickets or chances to be put on sale in any lottery, added to those already sold or put on sale in all earlier lotteries in the same calendar year, is to exceed £250,000.

Compliance with the Act may be at odds with the tax position, since the Inland Revenue have confirmed that lottery income is treated as being from a trade, and is thus subject to tax. This is not foreseen in the Act, which does not take into account tax as an expense of running the lottery.

Where a lottery is run by an organising body outside the club, for whose benefit the proceeds accrue, part of the lottery income may be exempt by virtue of an Inland Revenue Statement of Practice, issued following a Special Commissioners' decision in 1956. The Commissioners held that, where a football pool was organised on the basis that a specified percentage of the sum received from each ticket was paid as a donation to the football club, this donation element was to be excluded from the receipts to be taken into account in computing the taxable profits of the trade of promoting the pool. Thus, taxable income may be reduced by including a donation element in the ticket price, the donated amounts being paid over to the club. In order to come within the concession, the club must be conducted and established wholly or mainly for one or more of the purposes specified in section 5(1) of the Act. These include, inter alia, participation in or support of athletic sports or games.

In this way, the tax liability of the organising body can be reduced or eliminated and it may also be possible to avoid tax in the recipient club's hands. For instance, where the donations are true donations and not in return for services, they could be used to help finance a capital project, e.g. building new facilities. In this event, the Inland Revenue is unlikely to tax the donations received. However, the organisation of the lottery must be truly independent and controlled separately from the club.

A separate brochure is available from the Football Association on this matter entitled "The taxation of football club lotteries".

Regular activities and trades

Any public activities which are regularly carried on by clubs are likely to be treated as a trade by the Inland Revenue. This would include such things as dinner dances, fetes, festivals, fireworks displays etc, which may generate income for smaller clubs. In such cases, the Revenue may seek to go back and collect tax due for the past six years on that activity if it has not been reported and any tax due paid ('Scope of corporation tax').

The income from these activities will be taxed, with full relief for expenses (subject to the usual disallowances for entertaining etc).

Receipts from league organising body

The receipt of fees/prize money in respect of participation in competitions forms taxable income since this income is generated from the club's trading activity.

It is also possible that money will be received from the relevant league or governing body, payable out of its commercial income, which may be designated for youth development. Again, such income would be taxable since it effectively subsidises expenditure which would constitute tax deductible running costs.

Sale of land and capital assets

Clubs should be aware of the tax consequences arising out of the sale of land and other capital assets, such as buildings and other facilities. Often, sales are negotiated without the tax effects being taken into account. This gives rise to problems where the proceeds are spent and an unexpected tax bill then arrives.

Gains and losses

The sale of capital assets will normally give rise to corporation tax on any capital gain. For most clubs, the principal capital assets are likely to be land and buildings.

The cost of the asset, and any enhancement expenditure, can be deducted from disposal proceeds in arriving at the gross gain or loss, together with any costs of sale. If there is a gross gain, then indexation allowance can be claimed to reduce the gain. Indexation allowance is a relief designed to reduce the effects of inflation over a period of time. Indexation allowance cannot, however, create or increase a capital loss for sales.

If the asset was owned by your club on 31 March 1982, then the gain (or loss) may be computed according to the value of the asset at that date, rather than cost. This is likely to reduce the chargeable gain, but will involve a certain amount of negotiation with the Inland Revenue (or the District Valuer) in agreeing the value at that date.

A disposal of a lease will also give rise to a capital gain (or loss). The rules regarding the computation of tax due are complex, and you would be well advised to seek professional advice in this regard.

Capital losses cannot normally be offset against other profits, but can be offset against capital gains of the same accounting period. If, however, the club has other losses, for example, trading losses, these may be offset against capital gains of the same period. Unrelieved capital losses can be carried forward to offset against future capital gains.

Mitigation and deferral of gains

The good news is that there are ways of mitigating the effects of the capital gains rules. Gains can be deferred if proceeds are fully or partly reinvested in other qualifying replacement assets used by your club within a period of one year before the sale of the old asset and three years afterwards. The Board of the Inland Revenue may be prepared to extend this time limit if you can show that you were prevented from acquiring a new asset within the statutory time limit for reasons out of your control. To obtain full deferral, sales proceeds must be re-invested in their entirety.

Replacement assets which are "qualifying" for this purpose are:-

- land or buildings, provided they are used for the purpose of the club's activities;
- fixed plant or machinery;
- goodwill.

There are other qualifying assets, but they are not likely to be of the type to be owned by a club.

If the above "rollover" relief applies, the gain on the old asset is treated as being a deduction from the cost of the new asset, thus the gain is crystallised when the new asset is sold. For example, a football club sells its training pitch, which cost the club nothing relatively recently, for £300,000. It puts the proceeds towards the funding of a new stand, which costs £500,000. The gain on the training pitch of £300,000 can be "rolled over" against the cost of the new stand, by reducing its cost base for capital gains purposes to £200,000 (£500,000 cost, less £300,000 gain rolled over).

In the case of replacement assets which are depreciating assets (broadly those with a useful economic life of less than 60 years) a more restrictive holdover relief rather than rollover relief will be available to defer the gain.

Capital projects

By their very nature, capital projects occur only occasionally yet they can cause a significant additional strain on resources. Clubs should consider capital projects carefully in order to determine the financial viability of the project before taking the decision to proceed. This will include the preparation of detailed cash flows, budgets etc, using different assumptions. The availability of initial finance e.g. by way of loan and grants is often essential; not only must initial capital costs be funded, but the ongoing costs of running the facility must also be considered carefully, to determine whether there is sufficient income to cover those costs and to repay borrowings.

The availability of capital allowances on capital spending takes on greater significance, when determining the amount chargeable to tax. As explained in 'Deductions from taxable profits' above, tax relief is not generally available on expenditure incurred on buildings and sports facilities (with the exception of certain safety work for spectator sports incurred in meeting the safety requirements of a local authority under the Safety of Sports Grounds Act 1975), unless plant and machinery allowances can be claimed. It is frequently overlooked that part of the cost of the building itself may qualify for plant and machinery allowances. Appendix 2 contains a list of the items which qualify. However, the detailed rules which determine eligible expenditure are complex and professional advice will need to be taken as early as possible preferably before the project commences. For many projects it is probably worth getting advice from your surveyor or capital allowances consultant as to the allocation of costs, so that the maximum possible can be allocated to qualifying items.

The treatment of English Sports Council, National Lottery Distribution Fund and other grants may also be important (see 'Taxation of grants' below).

Amongst other taxes, VAT will also need to be considered, as it can constitute a significant cost where a sizeable project is envisaged. It may be worth taking detailed advice on the VAT implications, since full recovery of VAT incurred may not be possible e.g. in the case of members' clubs whose charges to members are exempt from VAT (see the Football Association brochure 'VAT and Sport'). Further, if building work is planned and the building costs are substantial, then the rules of the sub-contractors tax deduction scheme may apply; tax may need to be withheld from payments made to contractors and accounted for to the Inland Revenue.

It may be possible to fund the improvement of facilities in a tax-advantageous way. Interest-free loans and debenture schemes might be considered for the larger project to provide the initial capital.

The Football Association's brochure "Expenditure on Football Stadia – available tax relief" should be referred to for further information on the tax issues arising in respect of football stadia expenditure.

When contemplating capital projects it is always worth carefully considering the ways in which funds can be raised on a tax effective basis. Debenture schemes which can provide funds in a tax effective way should be reviewed together with some of the other methods mentioned in 'Tax effective funding'.

Taxation of grants

A grant is either capital or revenue in nature; the tax treatment of each differs.

A revenue grant is one which is intended to be a contribution towards running expenses, e.g. the cost of staging a competition. The tax effect of a revenue grant is normally that it is treated as a subsidy towards the costs it is helping to meet. Tax-allowable expenditure will normally be reduced to the extent that it is met out of a revenue grant.

A capital grant is one which is a contribution towards capital expenditure of any kind. The tax treatment of capital grants is less clear cut, as much depends on their precise nature. Generally, capital allowances are only available on expenditure on plant and machinery actually incurred by the taxpayer. If a third party incurs that expenditure on your behalf or subsidises it, then your right to claim allowances may be restricted. If, however, the asset in question is one which is not eligible for capital allowances, then the position is not prejudiced, since no capital allowances will be foregone.

It is therefore worth structuring any grant carefully to ensure where possible that your tax position is optimised. There are many different types of grant and it is always worth asking the grant-making body whether the Inland Revenue have agreed the tax treatment of its particular capital grants. The English Sports Council has agreed that its grants generally reduce the capital allowances which can be claimed on a grant-aided project unless the grant is made out of the Council's taxed income.

Clubs will be interested in the tax implications of receiving monies from the National Lottery Distribution Fund administered by the English Sports Council. The Inland Revenue's view is that National Lottery grants in respect of capital expenditure reduce the capital allowances which can be claimed in respect of such expenditure. Similarly their view is that revenue grants are in effect taxable for a club carrying on a taxable trade. The Inland Revenue view on capital grants is not entirely free from doubt; professional advice should be taken to avoid or at least minimise the tax impact of any such grants.

To the extent that grants are received from the Football Trust or its successor, the Football Stadia Improvement Fund (FSIF), then the source of this funding should be established. To the extent that the Football Trust paid capital grants from the receipt of funds derived from the Reduction in Pool Betting Duty (RPBD) then these did not represent a subsidy for capital allowances purposes. Wherever possible the club should endeavour to make sure that the FSIF makes its grants out of such income towards expenditure which qualifies for capital allowances. This ensures that, as far as possible, any other grants can be absorbed by non-qualifying expenditure so that capital allowances are not reduced.

Where the FSIF makes grants from other sources (non-RPBD money) then it is possible for this to be allocated against specific expenditure, for instance, if the grant is made in respect of a fixed roof (which would not qualify for capital allowances) then this would be more tax efficient than receiving a grant which is not allocated against any particular item of building expenditure. In the latter case it may be necessary to allocate the grant pro-rata against both qualifying and non-qualifying expenditure; capital allowances would therefore be reduced.

Charitable and special tax status

It is possible for some football clubs to obtain charitable status for some of their activities, e.g. community or youth work. Generally, the clubs themselves would not satisfy

the public benefit requirement and so would not be eligible for charitable status. This is a complex matter and is the subject of a separate Football Association brochure, "Football clubs and charitable status".

It is possible for clubs to get tax relief for cash payments and some support in kind to football charities.

The government are keen to encourage community sports clubs either by the Charity Commission granting them charitable status or by allowing them to register for special tax relief under the community amateur sports club (CASC) scheme. However, football clubs which pay their players will not be able to register as charities or under the CASC scheme.

Mergers of clubs

Surprisingly, there can be tax implications arising from the merger of clubs, even though no cash changes hands. The two merging clubs and the new club are regarded as separate taxable entities, so that there will be a passing of capital assets from the old clubs to the new merged club. The members will be regarded as disposing of their interests or their shares in the existing clubs, and acquiring interests or shares in the merged club. The consequences could be important where valuable capital assets e.g. land or tax losses are involved.

Fortunately, tax law does in this case adopt a common sense approach and, provided that a clearance is obtained, the Inland Revenue will not treat clubs as disposing of capital assets for tax purposes nor will the members be treated as realising any gain from the transfer of their membership or shares. Finally it should be possible to obtain Revenue clearance that there is no taxable income distribution to members.

There are other areas of difficulty such as:-

- the valuation of stock which is transferred;
- the tax treatment of assets qualifying for capital allowances;
- the treatment of expenses which are only allowable for tax purposes when they are paid;
- if there are tax losses in either of the existing clubs, it is not at all clear that these be carried forward into the new club to offset against its future taxable profits.

Although mergers do not take place very often, it is always wise to consider the tax position in detail and ensure that the necessary clearances are obtained by taking professional advice.

Tax treatment of the cost of player registrations

Until 1998, transfer fees were usually charged to the club's profit and loss account in the year in which the transfer took place, and this treatment was followed in the tax computations.

Following the implementation of FRS 10 ("Goodwill and Intangibles") for accounting periods ending on or after 23 March 1999, players' registrations were accounted for as intangible assets, and the cost of the transfer fee was spread over the life of each player's contract. Tax relief was no longer due in the year of transfer, but followed the accounting treatment, so that it was generally spread over the life of the contract. The effect being that tax relief was given later than under the old rules.

The 2002 Finance Act contained further changes to the taxation of intellectual property, goodwill and other intangible assets. These new rules apply to assets acquired or created on or after 1 April 2002; accordingly, clubs need to distinguish between players signed before 1 April 2002 and on or after that date.

Up to 31 March 2002

The existing treatment agreed with the Inland Revenue continues to apply to players whose registrations were transferred or effected on or before 31 March 2002.

These acquisition costs in respect of a player's registration must be amortised over the period of the player's original contract. For example, the transfer fee cost of £500,000 for a player with a 5-year contract would generally be written off at the rate of £100,000 pa for the period of the contract.

The sale of a player may give rise to taxable income but needs careful consideration, since the transfer fee received will be taxable to the extent that it exceeds the unamortized cost of the player carried in the books. The taxable profit resulting from such a transfer can be offset by trading losses. Therefore, if a player who has an unamortized book cost of £300,000 is then sold for £1,000,000, the club will be taxed on £700,000 even though the proceeds were subsequently reinvested in new players.

This is potentially a particular problem where there is a player swap between clubs since the deemed sales proceeds from the player sold will create taxable income without full offset for the "cost" of the player purchased.

However, a low value, provided it can be justified, could be attributed to the players involved and so the "proceeds" are kept low (as is the purchase cost of the replacement player) and so the resulting taxable income is minimised.

Players signed on or after 1 April 2002

Corporation tax relief is now available for expenditure on intangible assets, the relief being given in accordance with the accounting policy adopted. Confirmation has been sought and obtained from Inland Revenue Business Tax Division that players' registrations are within the new rules.

Intangible assets in existence before 1 April 2002 remain for the most part outside the new rules, which generally apply only to intangible fixed assets created by the company after commencement or acquired after commencement from a non-related party. Thus, new players signed after 1 April 2002 will be covered by the new rules, which generally give tax relief for fees paid and tax fees received in accordance with the figures shown in the profit and loss account. Therefore, generally, the new rules will give a similar result to the treatment of transfer fees prior to 31 March 2002. There is one important exception to this, which makes the treatment under the new rules more advantageous than under the old rules, and this arises on a sale of a player and reinvestment of the proceeds.

The major difference is that gains from the sale of a player may qualify for rollover relief; for this purpose, the gain is the excess of the sales proceeds over the original cost of the player before amortisation. Thus, in the case of a home-grown player, the entire sales proceeds will constitute the gain capable of qualifying for rollover relief. In order to qualify for relief in full, the whole of the sale proceeds must be reinvested. If not, the relief is limited to the excess of the reinvestment expenditure over the cost of the old player's registration. Further, the claw back of any amortisation already received is not subject to rollover relief. The following example illustrates this:

Transfer fee paid – 5 year contract	£1m		
Transfer fee received	£1.3m		
Unamortised cost after 2 years,at transfer out	(£600,000)		
		(a)	(b)
Taxable profit/credit (£1.3m less £600,000)	£700,000	£700,000	£700,000
Rollover relief			
(a) £1.5m reinvested in new player (all proceeds reinvested)	£300,000	(300,000)	
(b) £1.1m reinvested in new player (£200,000 of proceeds not reinvested)	£100,000		(100,000)
Taxable (no relief for claw back of amortisation)		£400,000	£600,000
Cost base qualifying for future amortisation over period of contract of new player		£1.2m	£1.0m

Unfortunately, the new relief is not available for players signed before 1 April, but players signed after that date and sold subsequently at a gain will, in principle, qualify. In particular, this may help a smaller club which sells a home-grown player for a substantial fee and reinvests the proceeds. The normal rollover relief rules on timing apply, i.e. reinvestment must be within one year before and three years after the sale of the player, the dates being recognised not by the date of the contract necessarily but when the expenditure or sales proceeds are recognised for accounting purposes. For those clubs that are members of larger commercial groups, rollover relief will be available within the group against intangibles acquired by other members of the group qualifying for relief, for example, intellectual property and goodwill acquired after 1 April 2002. The Inland Revenue has confirmed that rollover relief will be available for new players' registrations acquired after 1 April 2002. It is not clear whether relief can be claimed in relation to registrations after 1 April 2002 due to contract renewals but this may be possible.

Tax effective funding

There are a number of sources of finance available to football clubs, each source giving rise to its own tax implications. As well as third party sources, the club directors (who are often the major shareholders) may provide funds to the club either themselves or through their companies.

Finance provided by shareholders and directors may be of a capital or revenue nature and will commonly take the following forms:

- Share subscription.
- Providing loans to the club.
- Guaranteeing loans made by third parties, e.g. the bank.
- Where the director/shareholder owns his own business, by that business trading with the football club either as a customer or supplier.

The choice of support can have a significant impact on the tax position of the club and the provider.

Share subscription

A common method of providing finance is by subscribing for ordinary or preference shares in the company. These carry rights to dividends subject to the terms of issue and their payment is dependent upon the clubs profitability.

Shares are chargeable assets and as such, any disposal at a profit is subject to capital gains tax at the vendor's marginal rate of tax, possibly as much as 40%. Conversely, if a loss is made on disposal, this may be offset against capital gains for the current period or carried forward against future capital gains.

Capital gains taper relief is available on the disposal of shares (as business assets) if the various qualifying conditions are met. The qualifying conditions are extensive but broadly, if an individual holds shares in the club (or the holding company thereof) and is an employee of the club then taper relief should be available. In addition if the club's shares are unquoted (which includes a quote on the Alternative Investment Market) then any shareholding of whatever size qualifies for business asset taper relief. This could mean that after two years (previously four years until 2001-02) ownership the effective capital gains tax rate is 10%.

Enterprise Investment Scheme (EIS)

The EIS is designed to encourage investment by individuals in new ordinary shares of unquoted companies. If the (extensive) qualifying criteria for relief are met by the individual and club then the individual's tax relief will currently attract income tax relief at 20% of investments up to a maximum of £200,000 per tax year (£150,000 for shares issued pre 6 April 2004), i.e. cash of £40,000 is repaid by the taxman.

There are also capital gains tax incentives from such an investment, most notably that a disposal after three years is exempt from capital gains tax, providing the shares were issued after 6 April 2000.

Finally capital gains arising on any capital assets can be deferred by reinvesting them in new ordinary shares in the club, provided the qualifying conditions are met.

Group relief

Taper relief and EIS are reliefs targeted generally at individuals and may apply where individuals invest in clubs. Different reliefs are available where the investment is made through a company or companies. These reliefs generally enable losses incurred by the clubs to be offset against the taxable profits of the company(ies) investing in the clubs.

Where a director/shareholder owns his shares through a company or group of companies with other business activities, advantage may be taken of the group relief provisions if 75% of the football club's ordinary share capital is owned (subject to certain other tests being met). This means that all of the football club's losses can be surrendered and used by the other company or group of companies on a current basis even though the club is only a 75% subsidiary. The advantage as far as the club is concerned is that the other group company(ies) can make a payment of an amount up to the amount of the loss surrendered and this payment will be ignored for tax purposes. Wealthy individuals owning over 75% of the club's shares should consider transferring those shares to any company or group that they own in order to maximise the use of the club's losses.

Consortium relief

Relief is available to investors (corporate investors) in the form of consortium relief where the club is loss making.

Effectively the consortium members can use the club's current tax losses for offset against their own profits. Thus where the club is owned by local businesses through their own companies, losses can be used and paid for in the same way as for group relief. A consortium exists where companies (the consortium members) each own at least 5 per cent, and together own at least 75 per cent, of the share capital. This test may be difficult to satisfy where the football club's shares are owned widely but in this event consortium relief will still be available where the club is a 90% subsidiary of a holding company which is itself owned by a consortium.

Loans

Funds may be provided to the club by a shareholder/director by way of loans. Such loans may be at a rate lower than the market value or even interest free

and so can provide a cheap source of finance.

It is important to consider the position if a loss accrues on the loan. In this event, the loss may be a capital loss available for offset against capital gains in the year in which the loss arises.

Where interest is paid by the club on a loan (other than a bank loan) it will have to withhold income tax unless the payment is made to another UK taxable company and the recipient will be taxed on the gross amount of the interest received, but a credit for the income tax withheld will be available.

If an individual has taken out a loan in order to invest in shares or to loan the funds to the club, he may be able to obtain interest relief for that borrowing. Such a relief will only be available in certain circumstances; in particular the individual must have a material interest in the company or be a shareholder and have worked for the greater part of his time in the management of the business.

Guarantees

It is common for the directors to provide guarantees to third party lenders, for example the bank, in connection with football club borrowings. In the unfortunate event that a guarantee is called, it should be possible for the director to claim a capital, as opposed to a trading loss. It may also be possible to claim relief for any interest to provide the funds for the guarantee call.

A tax deductible payment may be made by the club to the director in return for provision of the guarantee.

Trading with other companies

If directors and/or shareholders have other commercial interests it may be possible to effectively provide support by means of trading transactions with the club. Where goods or services are provided to the club this may be done on favourable terms to the club.

For example:

- Construction of a new stand or ground improvements;
- Catering at the club;
- Provision of cars to manager and players where the commercial interest is a garage;
- Rental of the club's facilities for conferences, exhibitions etc;
- Hospitality - it should be noted that hospitality costs, in respect of client entertainment, are not tax deductible by the purchaser;
- Sponsorship either by means of shirt advertising or match sponsorship.

These transactions will normally be taxed on the basis of the value attributed to them rather than some different notional market value but care will need to be taken with the new transfer pricing rules 'Transfer pricing'.

Tax minimisation strategies

There follows a brief summary of actions which can be taken to minimise your club's corporation tax liability.

- Capital allowances should be maximised on capital projects by ensuring that all qualifying expenditure is identified.
- Where your club is contemplating safety improvements, it should obtain confirmation in writing from the local authority that such expenditure is necessary for a safety certificate to be issued. This confirmation may then be submitted to the Inland Revenue when negotiating the club's corporation tax liability. Expenditure pursuant to such a certificate should qualify in full for capital allowances.
- Where possible, capital gains should be rolled over into other assets for use in the trade.
- Current year losses of the football club should be surrendered for offset against the taxable profits of any other profitable companies in the football club group (merchandising company for instance).
- By structuring ownership through a group or consortium it will be possible for the club's losses to be utilised by the various consortium members against their own taxable profits.
- Under the new intangibles regime, in order to qualify for reinvestment relief in full, the whole of the sale proceeds must be reinvested within one year before and three years after the sale of the player. Therefore, where possible and where profits on player sales arise, timing of player purchases should be planned to meet the time limits.
- Where a player sale will result in taxable profits which cannot be sheltered, the timing of the sale of the player should be considered. If the sale is delayed until post year end (i.e. after the end of the season for most clubs) then any corporation tax liability can be deferred until the following accounting period.
- Player exchanges (at low values, provided they can be justified) can be used to reduce the profit on

disposal of the departing player, especially for players registered pre 1 April 2002.

- It is possible to apportion the price of box hire between supplies of advertising and those of corporate hospitality. In this way the purchaser is able to improve its input VAT recoverability and achieve a higher corporation tax deduction for the cost which would ordinarily be fully disallowed as business entertainment. Clearly this makes the purchase of executive boxes more attractive to potential customers and so allows the club to review its pricing policy accordingly. The club should be able to increase box hire prices in accordance with the VAT and corporation tax saving, such increases could be considerable. This can be a complex area and would necessitate professional advice being sought in order for the desired savings to be achieved.

In the 2004 Finance Act, the government announced new disclosure rules designed to provide the Inland Revenue with information about potential tax avoidance schemes. The new rules require promoters (most likely your professional advisors) of a tax scheme to provide details and register certain defined schemes and arrangements shortly after the scheme is sold. In most cases, taxpayers will only be required to include the registration number on their tax return. The rules covering disclosure requirements (including operative dates and the schemes covered) are complex and again you would be well advised to seek professional advice if you have any tax planning arrangements under discussion or in place.

Conclusion

The purpose of this brochure has been to increase awareness of corporation tax issues within the football club environment. It is hoped that some of the issues outlined will serve as a reminder to clubs that their tax position needs to be considered. Football, as far as tax is concerned, can be big business and large amounts of tax are often at stake.

There is no substitute for good professional advice. We recommend that advice is sought where large projects are envisaged. Careful planning can help prevent tax problems arising.

Clubs should be aware that the Revenue continue to focus on the tax affairs of clubs, and have been successful in collecting back tax and penalties and interest in many cases. With the increased profile of football, and further increases in players' transfer fees and wages, it is likely that the Inland Revenue will maintain a strong interest in the tax affairs of clubs.

The message is that officers and directors need to ensure that they are fully complying with their obligations and take advantage of all available tax planning opportunities.

Appendix 1 - Taxable and non-taxable income

Non-taxable income and profits will normally include:-

- Donations
- Dividends from other UK companies
- Grants for capital projects (but need to consider effect on capital allowances)

Taxable income and profits will normally include:-

- Income from members
- Sponsorship and advertising
- Gate money and royalties
- Central fees and distributions in relation to commercial income e.g. broadcasting
- Lottery income
- Investment income from bank deposits, building societies etc
- Rental and other income from property
- Gains on the sale of assets including land and player's registrations
- Income from non-members:-
  - food and drink sales
  - hire of facilities and equipment
  - fund-raising events
  - accommodation
- Sales of goods and equipment to non-members
- Merchandise sales

Appendix 2 - Assets which may qualify as machinery or plant

Advertising hoardings and perimeter boards which are not simply an integral part of a perimeter fence or other structure.
Air conditioning plant, fans and ventilation machinery.
Automatic exit doors and gates.
Bicycle holders.
Cameras, televisions, video recorders.
Cars, coaches and vans.
Computers, printers, photocopiers, typewriters and cash registers.
Cookers, fridges, freezers, microwaves, dishwashers.
Equipment used by the groundsmen - mowers, tractors etc.
Fencing is not machinery or plant, but for larger clubs and events it may come within the 1975 safety legislation and so qualify under section 70 Capital Allowances Act 1990.
Fire alarm systems, fire extinguishers, sprinkler systems.
Floodlighting.
Floor coverings which are not part of the building or structure; for example, carpets (but not tiles which are stuck down).
Goal posts and certain movable training equipment of a capital nature, e.g. a vaulting horse (but not equipment which is part of the premises).
Heating installations, boilers and water heaters.
Lifts and hoists.
Public address equipment - microphones, amplifiers and loudspeakers.
Racking, shelving, cupboards and furniture.
Scoreboards and visual displays.
Telephones and telephone equipment e.g. private exchanges.
Toilet sanitary ware, sinks and basins, baths and showers, whether for staff or the public (but not the mains water supply).
Turnstiles and spectator counting equipment.

Recent Case Law

In April 2004, the Special Commissioners held that capital expenditure incurred on synthetic grass for football pitches by a company in the business of providing leisure facilities was expenditure on provision of plant and machinery.

Appendix 3 – Companies Act definitions of small and medium sized companies (audit exemptions, and first year allowances)

A business is small, or small or medium-sized in a period of accounts if it satisfies at least two of the following conditions for the period of account or the preceding period of account (for financial years ending before 30 January 2004):

	Small	Small or medium-sized
Annual turnover	Not more than £2.8 million	Not more than £11.2 million
Assets	Not more than £1.4 million	Not more than £5.6 million
Employees	Not more than 50	Not more than 250

For financial years ending on or after the 30 January 2004 the thresholds have been increased:

	Small	Small or medium-sized
Annual turnover	Not more than £5.6 million	Not more than £22.8 million
Assets	Not more than £2.8 million	Not more than £11.4 million
Employees	Not more than 50	Not more than 250

If the business is a company which is part of a group, this test is done at the level of the world wide group.

Appendix 4 – The European Commission definitions of small and medium sized companies (transfer pricing)

An entity qualifies as either small or medium if it meets the staff headcount ceiling for that class and one (or both) of the financial limits as set out in the following table (referred to as the qualification data in these notes). Where the entity is a member of a group, or has an associated entity, these limits apply to the whole group and not the specific entity.

	Staff	Annual turnover	Balance sheet total
Small Enterprise	50	€10 million	€10 million
Medium Enterprise	250	€50 million	€43 million

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