



## National Golf Clubs' Advisory Association

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### **Community Amateur Sports Club (CASC)**

It is impossible to give any valid indication how many golf clubs have considered CASC registration and have rejected any such proposal. CASC registration has been available since 2002 and to date only approximately 12% - 15% of golf clubs have bothered to register. Whilst it must be acknowledged that there are number of clubs who are not eligible, the take up has not been significant and the overall targets that the government hoped to achieve by 2010 for sporting clubs to register is woefully short of the mark.

The Government, in 2002, recognised the important role that sports clubs played in Promoting Social and community inclusiveness and, in particular, promoting good health through regular exercise, however this contribution was not acknowledged by the tax system.

It is an historical fact that the sports club sector has suffered from a lack of cash and a lack of adequate facilities, despite the many volunteers involved within the sector. Worse still, there has been a decline in participation of healthy sports which has added to the problems of local sports clubs.

The government therefore introduced a package of tax relief's to support community amateur sports clubs ("CASC"). Despite not being registered as charities, such clubs will be eligible for many of the same tax relief's on income or on donations as are normally given to charities.

The NGCAA recognises that to register or not is entirely a matter for each club and it is a commercial decision which the club alone can make.

However it is felt that too much reliance can be placed on information contained on various web sites, including that of HMRC extolling the benefits and not enough time in considering the regulations which govern the entitlement and thus these are produced below for guidance.

When all is said and done the devil is often in the detail!

## The Regulations governing CASC registered clubs

### SCHEDULE 18 Relief for community amateur sports clubs

#### Part 1 Clubs entitled to be registered

##### The requirements

1 A club is entitled to be registered as a community amateur sports club if it is, and is required by its constitution to be, a club that—

- (a) is open to the whole community,
- (b) is organised on an amateur basis, and
- (c) has as its main purpose the provision of facilities for, and promotion of participation in, one or more eligible sports.

In this Schedule “registered club” means a club that is so registered.

##### Open to the whole community

2 (1) A club is open to the whole community if—

- (a) membership of the club is open to all without discrimination,
- (b) the facilities of the club are available to members without discrimination, and
- (c) any fees are set at a level that does not pose a significant obstacle to membership or use of the club’s facilities.

(2) For the purposes of sub-paragraph (1) “discrimination” includes indirect discrimination and includes, in particular—

- (a) discrimination on grounds of ethnicity, nationality, sexual orientation, religion or beliefs;
- (b) discrimination on grounds of sex, age or disability, except as a necessary consequence of the requirements of a particular sport.

(3) This paragraph does not prevent a club from having different classes of membership depending on—

- (a) the age of the member;
- (b) whether the member is a student;
- (c) whether the member is waged or unwaged;
- (d) whether the member is a playing or a non-playing member;
- (e) how far from the club the member lives;
- (f) any restriction on the days or times when the member has access to the club’s facilities.

##### Organised on an amateur basis

3 (1) A club is organised on an amateur basis if—

- (a) it is non-profit making,

- (b) it provides for members and their guests only the ordinary benefits of an amateur sports club, and
- (c) its constitution provides for any net assets on the dissolution of the club to be applied for approved sporting or charitable purposes.

(2) A club is “non-profit making” if its constitution requires any surplus income or gains to be reinvested in the club and does not permit any distribution of club assets, in cash or in kind, to members or third parties.

This does not prevent donations by the club to charities or to other clubs that are registered as community amateur sports clubs.

(3) The ordinary benefits of an amateur sports club are—

- (a) provision of sporting facilities;
- (b) reasonable provision and maintenance of club-owned sports equipment;
- (c) provision of suitably qualified coaches;
- (d) provision, or reimbursement of the costs, of coaching courses;
- (e) provision of insurance cover;
- (f) provision of medical treatment;
- (g) reimbursement of reasonable travel expenses incurred by players and officials travelling to away matches;
- (h) reasonable provision of post-match refreshments for players and match officials;
- (i) sale or supply of food or drink as a social adjunct to the sporting purposes of the club.

(4) Sub-paragraph (3) does not prevent a club from—

- (a) entering into an agreement with a member for the supply to the club of goods or services, or
- (b) employing and paying remuneration to staff who are also members of the club, provided the terms are approved by the governing body of the club without the member concerned being present and are agreed with the member on an arm’s length basis.

(5) In relation to the application of the net assets on the dissolution of the club, “approved sporting or charitable purposes” means such of the following as may be approved by the members of the club in general meeting or by the members of the governing body of the club—

- (a) the purposes of the governing body of an eligible sport for the purposes of which the club existed, for use in related community sport;
- (b) the purposes of another club that is registered as a community amateur sports club;
- (c) the purposes of a charity.

## Registration

### Registration and termination

11 (1) A club that applies to the Inland Revenue to be registered as a community amateur sports club shall be so registered if the Inland Revenue are satisfied that it is entitled to be.

(2) The Inland Revenue may register a club with effect from such date as they may specify (which may be before the date of the application).

(3) If it appears to the Inland Revenue that a registered club is not, or is no longer, entitled to be registered, they may terminate the club's registration with effect from such date as they may specify (which may be before the date of the decision to terminate the registration).

(4) Where the Inland Revenue—

- (a) register a club,
  - (b) refuse a club's application for registration, or
  - (c) terminate a club's registration,
- they shall notify the club accordingly.

(5) The Inland Revenue may publish the names and addresses of registered clubs.

### Information etc

12 A club that makes an application to be registered must—

- (a) provide the Inland Revenue with such information relating to the application as they may reasonably require;
- (b) if required to do so by the Inland Revenue, produce for inspection by them any books, documents or other records in the club's possession, or under its control, that contain such information.

### Appeals

13 (1) An appeal to the General Commissioners may be brought against a decision of the Inland Revenue under paragraph 11.

(2) Notice of an appeal under this paragraph must be given—

- (a) in writing,
- (b) within 30 days of the date of the notification under paragraph 11(4),
- (c) to the Inland Revenue.

(3) The notice of appeal must specify the grounds of appeal.

(4) On the hearing of the appeal the Commissioners may allow the appellant to put forward grounds not specified in the notice, and take them into consideration, if satisfied that the omission was not wilful or unreasonable.

(5) Where the appeal is against a refusal to register a club, or against a decision to register it with effect from a particular date, the Commissioners (if they do not dismiss the appeal) may either—

(a) direct that the club be registered with effect from a specified date, or

(b) remit the matter to the Inland Revenue for reconsideration.

(6) Where the appeal is against a decision to terminate the registration of a club, or to do so with effect from a particular date, the Commissioners (if they do not dismiss the appeal) may either—

(a) rescind the termination,

(b) direct that the termination have effect from a specified date, or

(c) remit the matter to the Inland Revenue for reconsideration.

(7) The provisions of the Taxes Management Act 1970 (c. 9) relating to appeals under the Taxes Acts shall apply to an appeal under this paragraph as they apply to those appeals.

Part 6 Interpretation

“Eligible sport”

14 (1) For the purposes of this Schedule “eligible sport” means a sport that is designated for those purposes by Treasury order.

A sport may be so designated by reference to its appearing in a list maintained by a body specified in the order.

(2) An order under this paragraph shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of the House of Commons.

Amateur Clubs registering as a CASC with the Inland Revenue can expect to claim:

80% relief from uniform business rates

exemption from Corporation Tax for certain trading profits, income from land, interest earned and chargeable gains subject to the detailed regulations

Tax relief's on gifts to the club, use of Gift Aid relief.

Of these it is probably the relief from uniformed business rates which is the most attractive incentive for golf clubs to register, amounting between £8000 to as much as £40,000 depending on the location of the club and its size.

However the savings do come at a price, not necessarily financial:

The fact of the matter is that once registered as a CASC a private members club immediately loses its status as such. This opinion was confirmed after speaking to the Revenue on 11th Feb 2004. Some clubs would find that in order to gain a brief respite from the constant pressure of staying financially viable they had permanently surrendered many aspects of their precious autonomy. The opinion has been confirmed by Standing Counsel and by David Ashton Esq. Barrister and co-author of the book "Aston & Reid" on club law published by Jordan's and this view is held by the CCPR

## Membership

(a) Membership of the Club shall be open to anyone interested in the sport on application regardless of sex, age, disability, ethnicity, nationality, sexual orientation, religion or other beliefs. However, limitation of membership according to available facilities is allowable on a non discriminatory basis. The membership of the club must be open to the whole community and must be organised on an entirely amateur basis.

There must be no discrimination in membership against those who wish to use the facilities. This is not quite as Draconian as it sounds - clubs can still fix their own membership procedure within limits. But they cannot, for example, refuse membership to someone simply because they've never played a round of golf in their life. That would be classed as discrimination, based on the applicant not having 'reached an acceptable standard'.

Here it should also be noted that the duties imposed on a CASC are far wider than the duties fixed by law. For example the law relating to age discrimination does not apply to applications for membership to a private members club (as yet in 2008).

To refuse or to withhold (defer) membership on the grounds of age will be contrary to the rules of the scheme and there is evidence to support this view (a rule prohibiting 9 year olds from joining the club was held by the Revenue to be discriminatory and the club had to change its rules although in another application the Revenue agreed that the club did not have the infra structure to support 9 year olds and the second club's application was successful).

In addition some clubs have pursued a policy fixing entry criteria by reference to age – e.g. awarding points for a number of things including (usually fewer) dependant on the applicants age

The rule does not define adequately or at all what will be regarded as "discriminatory practices". There is some small evidence to demonstrate that arguments will be advanced by members complaining that a CASC offends the spirit of CASC alleging:

- (i) Dress codes offend the rule
- (ii) Handicap limit competitions offend the rule

The Club may have different classes of membership and subscription on a non discriminatory and fair basis. The Club will keep subscriptions at levels that will not pose a significant obstacle to people participating.

It is the second part of this rule which poses a potential problem. At what stage is the Revenue likely to hold that subscriptions are too high? What measures will a club have to take to cap subscriptions? The rule does not consider levies thus what stance will the revenue take if it is complained that a levy is too high? How will the revenue treat a complaint that a member cannot raise sufficient funds to meet a levy? Will they demand clubs exempt from payment or insist on the club permitting the levy to be spread over a number of years by those who say they cannot afford it?

Thus club fees must be set at a level that does not pose a significant obstacle to its membership or facilities; otherwise an expensive discrimination claim could follow based on a breach of the regulations.

The Club Committee may refuse membership, or remove it, only for good cause such as conduct or character likely to bring the Club or sport into disrepute.

Appeal against refusal or removal may be made to the members.

This is the area in which a number of clubs have already faced some difficulty not only from rejected applicants but also their proposers and seconder.

If membership is refused for some, even good, reason then it is mandatory for the disaffected applicant to be given a right to appeal to the members. A specially convened committee of members will suffice for this purpose but what may easily be overlooked is that their deliberations will be subject TO THE RULES of NATURAL JUSTICE and all that implied therein. It does not take much imagination for clubs to realise the scope for litigation in this area, and that is leaving aside the power of the local authorities to intervene and force clubs to accept those into membership who it would not otherwise consider on pain of deregistration and all the penalties that follow.

### 3. Property and Funds

(i) The property and funds of the Club cannot be used for the direct or indirect private benefit of members other than as reasonably allowed by the Rules and all surplus income or profits are reinvested in the club.

(ii) The Club may provide sporting and related social facilities, sporting equipment, coaching, courses, insurance cover, medical treatment, away-match expenses, post match refreshments and other ordinary benefits of Community Amateur Sports Clubs as provided for in the Finance Act 2002.

The Club may also in connection with the sports purposes of the Club:

(a) sell and supply food, drink and related sports clothing and equipment;

(b) employ members (though not for playing) and remunerate them for providing goods and services, on fair terms set by the Committee without the person concerned being present;

(c) pay for reasonable hospitality for visiting teams and guests;

indemnify the Committee and members acting properly in the course of the running of the Club against any liability incurred in the proper running of the Club (but only to the extent of its assets).

The Committee will have due regard to the law on disability discrimination and child protection.

The only slight problem encountered so far is that the Auditors of a club suggested that payment of an honorarium to the Captain during his year of office (equivalent to a year's subscription) offended the provisions of the scheme. The club were advised to contact the local inspector who "did not take the point" but will all others?

It should be noted that, according to the regulations outlined above a number of important questions require clarification from the Revenue to allow a club to properly consider whether it should apply for registration:

A club engages a "franchised caterer" to provide catering services to its members, visitors and guests. The caterer pays a franchise fee (either fixed or based upon turnover or profit). Does the fee, however calculated, form part of its non qualifying income which otherwise would not be subject to the exemptions provided for in the regulations

Golf clubs engage a golf professional as an independent contractor. A retainer is usually paid and, further fees are paid often based upon green fee income. The contract usually provides that the pro will provide lessons for the club's members which each member (other than possibly juniors) having a lesson pays for privately based upon an advertised hourly rate. Will the retainer be allowed as a deductible expense for the purpose of calculating the club's qualifying income for CASC purposes?

A club sells and supplies alcohol and provides regulated entertainment under the authority of a premises licence; with a personal licence holder and appointing a designated premises supervisor. The club provides catering "in house" for its members, visitors and guests but also advertises in the local press for members of the public to visit the club and treat themselves to a traditional "Golfers Sunday Lunch" on a Sunday. Profits derived from the catering and bar are a factor in determining the level of subscriptions payable by the members each year. Does income derived from this activity fall into "qualifying income" for CASC purposes and/or is the provision for catering regarded as an "adjunct" to the provision of sporting activities?

Is green fee income in its entirety regarded as qualifying income for CASC purposes?

Attempts have been made by the NGCAA to obtain definitive answers to these questions. We have been advised (by telephone on 29th October 2008).

Understandably HMRC are unable to say. They correctly point out that much will depend on each individual case and the true status of the club will have to be determined – What is its primary objective and how is this supported by their accounts. They confirmed it may be a matter of apportionment but were not in a position to confirm or otherwise whether this would apply in every case.



The Revenue was, however, kind enough to confirm that at the moment they are treating applications and issues arising from registration with a “light touch”. They did not say how long that this was to continue.

#### Winding Up

(a) The members may vote to wind up the Club if not less than three quarters of those present and voting support that proposal at a properly convened general meeting.

The Committee will then be responsible for the orderly winding up of the Club’s affairs.

After settling all liabilities of the Club, the Committee shall dispose of the net assets remaining to one or more of the following:

to another Club with similar sports purposes which is a registered charity and/or to another Club with similar sports purposes which is a registered CASC and/or to the Club’s governing body for use by them for related community sports.

#### Monitoring

At present there is no official monitoring of the scheme. It will, however, in all probability rest in the hands of the Local Authority. At the moment they seem ambivalent, as long as government pay the short fall they do not appear to be too bothered. It is, however, only a matter of time. At a recent meeting held at the offices of the CCPR it was confirmed that the Revenue will be looking to introduce a monitoring system to ensure compliance.

Local authorities, the taxman and other outside agencies become directly involved the affairs of registered clubs. As rate relief is granted by the club’s local authority, officials are under an obligation to ensure the registration criteria are met and are adhered to. Rule changes at the club need to be made in consultation with the Revenue or the local authority. Any complaints that the registration criteria were not being met are investigated by outside agencies.

Please remember that these are political institutions and usually do not apply legal standards to issues of interpretation.

It is common knowledge that in addition to qualifying for appropriate rate relief a club which has registered itself as a CASC is exempt from Corporation Tax on trading income of less than £30,000 per annum and profits from property income are similarly exempt if the income is less than £20,000.

Further those clubs registered as CASCs with an income surplus from qualifying income streams not exceeding these amounts will not be required to submit a Corporation Tax Return.

Tax however is due on all income that is not spent in accordance with the club’s qualifying (for CASC status) purpose.

The definition of a CASC is set out in the legislation. It is designed to give relief to clubs that:

are open to the whole community

are organised on an amateur basis

have as their main purpose providing facilities for, and promoting participation in one or more eligible sports

Thus against this background questions have been raised to enquire what, if any, income streams generated by a club would be deemed to be “non-qualifying” income to which the exemptions would not apply?

Not surprisingly there is no definitive answer and each case would be decided on its merits (or more probably lack of them) but here are a few examples of taxable income (or expenditure) that may be regarded as non qualifying income streams:-

fundraising on behalf of entities outside (of the club) such as local Charity days or possibly corporate days

hire of club facilities for functions not in furtherance of the club’s primary sporting purpose – many clubs hire out their facilities to local groups for meetings and dinners

events that may render the club facilities inaccessible to ordinary members at weekends and at other times – this could present very real problems where CASC register clubs hold “open” events limited to individuals of one gender or events limited by (say) handicap or host national or regional events to the exclusion of members of the local community.

franchise sports shop or bar

mobile suppliers at events

miscellaneous corporate events

miscellaneous rental arrangements

The above list is by no means exhaustive but we feel that most clubs could easily be caught by some of the above categories.

Whatever the case HMRC is quite emphatic when it says that the club’s accounts must accurately include details of such non qualifying income and expenditure and that relief may not always be available and where a CASC has incurred non qualifying expenditure its exemptions from tax may be restricted.

Thus CASC registered clubs must ensure that all those responsible for the preparation of their accounts and for the completion of all relevant returns are aware of these provisions and take the necessary steps to make full disclosure. Failure to do so may result in substantial penalties being incurred.

To add further fuel to the fire readers may be interested in the following extracts from correspondence passing between an individual and HMRC on the subject of membership categories and discounts for CASC registered clubs:

#### Query

I am a member of a private members club who are considering seeking approval at the club's AGM to join the CASC scheme.

The Senior Members of the club have for a substantial number of years received a 50% reduction in the Full Male Fees. Although this reduction is not part of the Articles of Association of the Club, the then Committee granted the over 65's, with 10 years Full Fee membership prior to reaching the age of 65 the privilege of a 50% reduction in Fees.

Now because the number of seniors has increased dramatically there is talk of doing away with the seniors category altogether.

If my Club does adopt going for CASC at its AGM what options are available to these Senior Members, with regard to the CASC Legislation, to enable them to continue playing golf at my Club at a Fee which is affordable to them considering their low income situation.

#### Extracts from the reply from HMRC

Thank you for contacting HMRC Charities. Please note that if in your original email, you included information of a sensitive nature, it will have been removed to maintain customer confidentiality.

Thank you for your email.

One of the conditions a club has to satisfy in order to qualify for the scheme is that it must be open to the whole community.

A club may have different classes of membership and subscriptions for pensioners or juniors.

If you think because of the issues raised in your email that the club may not satisfy the qualifying criteria for CASC membership you may wish to consider raising the matter at the club's AGM.

#### Second Query

Dear Sir,

A friend of mine who is a non-golfer, has a son who is unemployed and on unemployment benefits, has sought my help to see if there is a Golf Club in the area which his son could join in order to pursue his interest in golf as a sport and hobby and to stay healthy in his present circumstances.

At the local Private Members Golf Club the Annual Fees and Joining Fee is way above what my friend's son could afford.

However within the area where he lives (and reachable by public transport) there are a number of Golf Clubs that have joined and become members of the CASC scheme.

Having visited the Web-sites of a number of these CASC Member Golf Clubs I cannot find any reference to Fees for Low Earners or the un-employed in their Membership Schemes.

Having read the document 'CASC Guidance Notes for Affiliated Clubs', Summary of CASC Legislation, what possibilities are open to my friend's son to allow him the option to play golf by joining one of the CASC Affiliated Golf Clubs.  
Yours faithfully,

Reply

Thank you for contacting HMRC Charities. Please note that if in your original email, you included information of a sensitive nature, it will have been removed to maintain customer confidentiality.

Thank you for your email.

In order to qualify for the community amateur sports club scheme a club must be open to the whole community, is organised on an amateur basis and has as its main purpose the provision of facilities for, and promotion of participation in one or more eligible sports.

A club's fees should be set at such a level that does not pose a significant obstacle to membership or use of facilities. The legislation does not specify what an acceptable level is, however clubs should bear in mind that the object of the scheme is to enable all of the community to participate in sports. So fees must be set at a level that most members of the community are able to afford.

This office is responsible for considering applications from club's to join the scheme and would take into account the level of subscriptions before granting registration. However it is not our role to give advice of the nature requested in your email.

Thus it can fairly be seen that registering as a CASC or contemplating registration of a CASC whilst having substantial benefits is not without potential issues arising which might not be in the contemplation of those making or recommending the decision. Whether or not these issues become major problems will depend entirely on committees being aware of the obligations the rules of the scheme impose and managing the issues in an effective way.

## Conclusion

Whether or not to register is a Commercial decision for any club to reach.

The committee DO NOT have power to make this decision without the permission of the members because of the change of status. They may, of their own volition, decide NOT to register as this does not affect the status quo.

Before applying to become a CASC registered, club members should call an Extraordinary General Meeting to consider the pros and cons of registration.

The committee are under a duty to provide all relevant information to the members to enable them to reach an informed decision

What is the “per capita” saving and how will members react to a subscription increase when viewed against the backdrop of the alleged savings made in rates payment?

How soon will the savings be absorbed into general expenditure as opposed to providing for a capital project?

Does the clubs local authority continue to give discretionary rate relief?

Currently there is no provision in the legislation for a club to de-register and therefore no precedents to draw on. There have, however, been suggestions that de-registration or being struck off the register could result in repayment of cumulative subsidisation and a revaluation of the clubs assets for capital gains tax purposes. See the regulations above.

There are numerous other issues that need careful consideration. Social membership; legitimate reasons for refusal of membership; tax thresholds, and eligibility to name but a few.

Finally

The NGCAA attended a meeting at the offices of the CCPR. We were invited to see if any light could be shed on the apparent reluctance of all sports clubs to take up the scheme (currently there are about 10% of golf clubs who have

registered). Our view was that one of the barriers was lack of adequate guidance and raised most of the points in this paper and asked for clear guidance on the issues. Other than web site changes there has been no attempt to give guidance on specific issues relating to golf clubs.