

# Tax Representation



**TAXREP 28/08**

## **TAX LAW REWRITE: BILL 6: CORPORATION TAX COMMUNITY AMATEUR SPORTS CLUBS**

***Memorandum submitted in April 2008 by the Tax Faculty of the Institute of Chartered Accountants in England and Wales in response to Paper CC/SC(08)06 issued in February 2008 by HMRC Tax Law Rewrite Team***

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# TAX LAW REWRITE: BILL 6: CORPORATION TAX

## COMMUNITY AMATEUR SPORTS CLUBS

### INTRODUCTION

1. We welcome the opportunity to comment on the draft clauses in Paper CC/SC(08)06 (Bill 6: CASCs (community amateur sports clubs)) issued on 14 February 2008 at <http://www.hmrc.gov.uk/rewrite/>.
2. Details about the Institute of Chartered Accountants in England and Wales and the Tax Faculty are in Annex A. Our Ten Tenets for a Better Tax System which we use as a benchmark are summarised in Annex B.

### GENERAL COMMENTS

3. The draft clauses rewrite source legislation enacted relatively recently, in Schedule 18 in FA 2002. Although enacted during the earlier years of the Tax Law Rewrite Project, when it may not have been reasonable to expect Tax Law Rewrite techniques to be fully applied to Finance Bill drafting, it is apparent that numerous changes have now been considered necessary in drafting the rewritten Chapter (apart from those necessitated by changing from a schedular to clauses format) in order to accord with Tax Law Rewrite style. The extent of this remedial work emphasises the importance of fully adopting and applying Tax Law Rewrite drafting techniques before the Project comes to an end, and maintaining these thereafter, if the benefit of these is to continue to be reflected in future Finance Bills.
4. The draft clauses are acceptably rewritten, and only minor comments arise. In particular clauses 9-11 (Restrictions on exemptions) are more readily comprehensible than the source paragraph 8 of Schedule 18 to FA 2002.

### ANSWERS TO QUESTIONS

5. **Q1** We support the proposal to replace the words “the Inland Revenue” with the words “an officer of Revenue and Customs” in clause 1.
6. **Q2** We support the proposal to replace the words “the Inland Revenue” with the words “Her Majesty’s Revenue and Customs”.
7. **Q3** If arm’s length terms must apply to agreements to employ members or to pay them for goods or services provided to the registered club, then that should prove sufficient for the purposes of clause 3 (Meaning of “organised on an amateur basis”). Accordingly we can support the proposal to remove the formal requirement in paragraph 3(4) of Schedule 18 to FA 2002 that such terms should also be approved by the governing body of the club without the member concerned being present. Nevertheless, the paragraph 3(4) formal requirement is arguably more favourable towards competition without any imputation of bias, although its removal is a small deregulatory step and welcome as such.

8. **Q4** We support the proposal to replace the words “the Inland Revenue” with the words “an officer of Revenue and Customs” in clause 13.
9. **Q5** We support the proposal to replace the words “the Inland Revenue” with the words “an officer of Revenue and Customs” in clause 14.

#### **SPECIFIC COMMENTS ON DRAFT LEGISLATION**

##### **cl 5 Exemption for UK trading income**

10. **(4)(b)** It may be clearer to replace ‘were proportionately reduced’ by ‘were the proportionately reduced amount of its UK trading income for the actual accounting period’.

##### **cl 6 Exemption for UK property income**

11. **(4)(b)** It may be clearer to replace ‘were proportionately reduced’ by ‘were the proportionately reduced amount of its UK property income for the actual accounting period’.

##### **cl 7 Exemption for interest and gift aid income**

12. **(2)(b)** It may be clearer to replace ‘were proportionately reduced’ by ‘were the proportionately reduced amount of its interest income for the actual accounting period’.

##### **cl 12 Asset ceasing to be held for qualifying purposes etc**

13. **(6)** An assessment might be made within three years *after* the end of the accounting period in which the chargeable gain accrues. Accordingly, should ‘3 years or more’ be replaced by ‘more than 3 years’ (after the end of the accounting period)?

TJH/PCB  
11.4.08

## ICAEW AND THE TAX FACULTY: WHO WE ARE

1. The Institute of Chartered Accountants in England and Wales (ICAEW) is the largest accountancy body in Europe, with more than 128,000 members. Three thousand new members qualify each year. The prestigious qualifications offered by the Institute are recognised around the world and allow members to call themselves Chartered Accountants and to use the designatory letters ACA or FCA.
2. The Institute operates under a Royal Charter, working in the public interest. It is regulated by the Department for Business, Enterprise and Regulatory Reform through the Financial Reporting Council. Its primary objectives are to educate and train Chartered Accountants, to maintain high standards for professional conduct among members, to provide services to its members and students, and to advance the theory and practice of accountancy, including taxation.
3. The Tax Faculty is the focus for tax within the Institute. It is responsible for tax representations on behalf of the Institute as a whole and it also provides various tax services including the monthly newsletter *TAXline* to more than 10,000 members of the ICAEW who pay an additional subscription.
4. To find out more about the Tax Faculty and ICAEW including how to become a member, please call us on 020 7920 8646 or email us at [taxfac@icaew.com](mailto:taxfac@icaew.com) or write to us at Chartered Accountants' Hall, PO Box 433, Moorgate Place, London EC2P 2BJ.

## THE TAX FACULTY'S TEN TENETS FOR A BETTER TAX SYSTEM

The tax system should be:

1. **Statutory:** tax legislation should be enacted by statute and subject to proper democratic scrutiny by Parliament.
2. **Certain:** in virtually all circumstances the application of the tax rules should be certain. It should not normally be necessary for anyone to resort to the courts in order to resolve how the rules operate in relation to his or her tax affairs.
3. **Simple:** the tax rules should aim to be simple, understandable and clear in their objectives.
4. **Easy to collect and to calculate:** a person's tax liability should be easy to calculate and straightforward and cheap to collect.
5. **Properly targeted:** when anti-avoidance legislation is passed, due regard should be had to maintaining the simplicity and certainty of the tax system by targeting it to close specific loopholes.
6. **Constant:** Changes to the underlying rules should be kept to a minimum. There should be a justifiable economic and/or social basis for any change to the tax rules and this justification should be made public and the underlying policy made clear.
7. **Subject to proper consultation:** other than in exceptional circumstances, the Government should allow adequate time for both the drafting of tax legislation and full consultation on it.
8. **Regularly reviewed:** the tax rules should be subject to a regular public review to determine their continuing relevance and whether their original justification has been realised. If a tax rule is no longer relevant, then it should be repealed.
9. **Fair and reasonable:** the revenue authorities have a duty to exercise their powers reasonably. There should be a right of appeal to an independent tribunal against all their decisions.
10. **Competitive:** tax rules and rates should be framed so as to encourage investment, capital and trade in and with the UK.

These are explained in more detail in our discussion document published in October 1999 as **TAXGUIDE 4/99**; see <http://www.icaew.co.uk/index.cfm?route=128518>.