ICAS response to the HMRC consultation document
‘Tax Treatment of Income from Sporting Testimonials – Proposals for Legislation’

26 August 2015
About ICAS

The Institute of Chartered Accountants of Scotland ("ICAS") is the oldest professional body of accountants. We represent around 20,000 members who advise and lead businesses. Around half our members are based in Scotland, the other half work in the rest of the UK and in almost 100 countries around the world. Nearly two thirds of our members work in business, whilst a third work in accountancy practices. ICAS members play leading roles in around 80% of FTSE 100 companies. ICAS is also a public interest body.

General Comments

ICAS welcomes the opportunity to comment on the HMRC consultation document 'Tax Treatment of Income from Sporting Testimonials – Proposals for Legislation' which was issued 8 July 2015.

We note that HMRC proposed last year to replace its existing guidance on the tax and NICs treatment of sporting testimonials with more comprehensive guidance that “accurately reflects the current statutory position”. The responses to that consultation suggest that there is some disagreement with HMRC’s view of the statutory position and HMRC itself suggested that some problems in fact arose from the current guidance being “improperly applied in practice”. This is therefore likely to cause considerable confusion and lack of certainty for organisers of testimonials and recipients of the payments.

ICAS believes that it is important that clarity is provided for sporting bodies and sportspeople. This is particularly important because whilst HMRC states that the new guidance will not in itself bring about a statutory change in the treatment of sporting testimonials it goes on to say that “due to the current lack of clarity, the change is likely to result in more payments being treated as taxable and liable to Class 1 NICs.” We would like to see the draft new guidance published for comment and discussion with sporting bodies as soon as possible.

The current consultation proposes the introduction of a partial exemption or de minimis amount which is not subject to tax or NICs. Given that HMRC believes that more testimonial payments are likely to be treated as taxable and liable to NICs, ICAS believes that the introduction of such an exemption would be helpful in implementing the Government’s intention to protect those for whom taxation of testimonial proceeds would have a disproportionate effect.

Specific questions

1. **Should the Government introduce an exempt amount which is not subject to tax or NICs?**

This would be a sensible option to help to implement the Government’s intention to protect those who might be disproportionately affected, especially lower-paid sportspeople and those whose careers have been ended by injury. It would also help to provide certainty on the treatment of payments below the exemption amount.

2. **If you consider that a tax and NICs free amount should be introduced, what level do you think that amount should be and why?**

As a matter of policy ICAS would not give an opinion on an appropriate amount; this is a decision for government with input from relevant sporting bodies.

3. **Should any exemption apply to each sequence of sporting testimonials or should it be a lifetime exemption?**

A lifetime exemption would produce the fairest result because all sportspeople would be eligible for the same amount. However, as the consultation notes, this would potentially introduce complexity in that the organisers of later testimonials for different clubs would need to know how much of the exemption had been utilised by earlier ones.
4. Where a series of matches straddle more than one tax year do you agree there should be a single exemption?

Yes.

5. Do you agree that there should be an upper limit and if not, why not?

If the exemption introduced is for each testimonial for a particular club, so that some sportspeople would qualify for numerous exemptions, then an upper limit would probably be necessary to ensure that higher-paid sportspeople did not benefit disproportionately. It might be less necessary for a lifetime exemption.

6. If you agree there should be an upper limit, what amount should the limit be set at and why?

See answer to question 2.

7. If you agree there should be an upper limit, do you favour an automatic or a tapering exclusion?

An automatic exclusion would be simpler to operate but would produce a ‘cliff edge’ effect.

8. Do you agree that concerns about double taxation would be alleviated if the government introduced legislation which deemed an independent testimonial committee to be the legal employer for the purposes of the sporting testimonial?

This would be a sensible change.

9. Are there other options for reform which you think the Government ought to consider?

As noted above ICAS would like to see the proposed new guidance published as soon as possible and publicised to relevant sporting bodies to minimise the confusion caused by the withdrawal of the current guidance.