

The Association of Golf Course Owners – Abbotsley Golf Club – St. Neots PE19 6XN

Chairman: Vivien Saunders OBE PhD FCMI (Solicitor – retired)

Tel: 07956 628338 Email: viv@viv.co.uk www.agco.org.uk

Deputy Chairman: Andrew Sutcliffe. North Region: Peter Roberts. Northern Ireland: Kenny Logan.

South Region: Ross Noades

Fighting for fair VAT and tax in golf for 20 years

Association of Golf Course Owners Response to CASC Consultation Questions 8 August 2013

Q1 – Are there any other costs from participating in a sport that should be specifically included or excluded? If so, what are your reasons?

We are very strongly in favour of the proposals contained in Para 4.10 which state that – “the costs associated with membership should include all the mandatory costs that arise as a result of taking part in a particular sport and not just the annual subscription or membership fee.”

These would include such other costs as competition entry fees, affiliation fees, match fees, equipment including balls, clubs, gloves, tees and golf shoes.

We feel strongly that the inclusion of all costs that arise including Membership Fees is entirely appropriate and will ensure that the overall costs of participation are within reach of ordinary members of the general population.

Q2 – Where the costs of participation are high, are there any other arrangements clubs could make to enable members to participate fully at a lower cost?

Proprietary clubs are, by their nature, most open to new members. There are no interviews with committees and proposing by existing members. Costs, even in the London area, to play unlimited golf can be under £500. [Example Horton Park Golf Club, Epsom] Thus, all clubs, if they are to benefit from CASC need similar arrangements to ensure participation for all.

Q3 – How should ‘full participation’ be defined? Do you agree with the proposals above or should the minimum requirements be more or less than those set out above? If so, what would you suggest and why?

We agree with the proposals set out in the consultation document.

Q4 – How often should access to a club's facilities be available to members? Should limits be defined differently for individual and team sports, and during different playing seasons? If so, what would you suggest and why?

Golf Clubs are structured on a 5 day and 7 day member basis, differentiating between those that play just Monday to Friday for a slightly reduced rate compared with those who can play every day. The proposals need to recognise this membership structure, which is widespread.

Q5 – What is an appropriate maximum annual membership and participation fee and still be considered open to the whole of community? What are the factors that need to be considered when setting the maximum limit?

There are many mid market golf clubs around the country who charge less than the proposed maximum of £1,040 per annum. However, if this limit is used, then account has to be taken of the amount the membership fees are subsidised by visitor green fees. In some cases clubs can have hundreds of thousands of pounds of visitor green fee revenue, which rightly should disqualify them from the CASC scheme.

Q6 – Should the maximum annual amount be higher or lower than £1,040? If so what should the maximum annual amount be and what are the reasons for your view?

See answer to Question 5. £1,040 per annum equates to £20 a week which the majority of keen golfers should be able to afford. The level should certainly not be set any higher, however, consideration should be given to a lower figure to account for the additional costs of playing golf. We believe, the additional cost of clubs, balls, competition fees and the like, adds around £400 per annum. Thus the annual maximum membership fees should be £1,040 less £400 giving £640.

Q7 – Should the maximum limit be updated in future years? If so how?

It should be reviewed every 5 years against industry averages. Inflation may not be an accurate way to increase the minimum.

Q8 – Where a club needs to charge a higher fee because the overall costs of participation are higher than the maximum amount what provisions should clubs put in place for those on low and modest incomes?

There should be no need for additional provisions.

Q9 – Should CASCs be allowed to pay players? What are your reasons for your view?

If you agree that clubs should be allowed to pay players, do you agree that:

- A club should be allowed to have a maximum of one paid player at any time?
- The maximum a club could pay a player in any one year should be a maximum of £5,000?

If not, what limits would you suggest?

Not relevant to golf.

Q10 – Are there any payments that should be excluded from the definition of a payment to a player? For example should sponsorship payments by third parties be included or excluded? Why?

Not relevant to golf.

Q11 – Clubs would not be allowed to make payments to club officials or anyone connected with them for playing. Are there any other people who should be excluded from receiving payments to play? What are your reasons for these suggestions?

Not relevant to golf.

Q12 – Are there any other safeguards that should be put in place?

Not relevant to golf.

Q13 – Do you consider 2 hours travelling in each direction (4 hours total) to be acceptable reasonable daily travel to a match? If not, what would be acceptable reasonable daily travel to and from a match and why?

Not relevant to golf.

Q14 – Are the arrangements proposed above clear and flexible enough for clubs to operate or do you feel that there are more appropriate alternatives? If so, what is your proposal and why?

Not relevant to golf.

Q15 – What limits should there be on overnight stays? For example should hotel costs be capped by amount per night etc? What limits would you suggest?

Not relevant to golf.

Q16 – Should there be an annual limit on how much a club can spend on travel and subsistence in any given year?

Not relevant to golf.

Where a club is paying a playing member's travel and subsistence costs:

Q17 – What type of tours would be acceptable? Are domestic and overseas tours acceptable or should there be restrictions? If so, what restrictions would you recommend and why?

Not relevant to golf.

Q18 – Should members who are on tour be required to play a certain amount of hours or days either in training sessions or playing matches? If so, how many hours or days should players be involved in these activities? Or should the requirement be that only a certain number or proportion of days in any tour should be non-playing days?

Not relevant to golf.

Q19 – Should there be an annual limit on how much a club can spend on *tours* in regards to travel and subsistence in any given year?

Not relevant to golf.

Q20 - Do you agree that at least 50% of a CASC's full members should be participating in the club's sport? Should the percentage of participating members be higher or lower? If so, what amount would you propose and why?

In golf clubs 90% of members should be participating in golf. Social memberships should only account for a very small percentage of total members.

Q21 – How often should a member participate in a sport or a club's sporting activities in order to be deemed a participating member rather than a social member?

This is a very sensitive area for golf as many clubs create 'day members' in order to comply with their on-licence and to classify visitor green fee income effectively as membership income thus avoiding corporation tax.

5 day members, by definition, have access to the golf course 5/7 of a year or 71%. Other membership schemes allow members to buy variable numbers of rounds. At Horton Park Golf Club a member can buy as few as 5 rounds.

In order to ensure club's day membership schemes are not abused, if a member is paying over 75% of the full membership cost, then they should be classed as a participating member.

Q22 – Are there other ways in which to define a member and a non-member? If so what would you suggest?

In golf, it is important that the abuse of the term 'temporary member' is curtailed. Many current CASC golf clubs record visitors as 'temporary members' and 'member's guests' when they are nothing of the sort. This enables these clubs to avoid VAT and Corporation tax on taxable income.

A member MUST be someone who has full voting rights, a right to stand for office and represent the club and share in the club's funds.

Q23 – Do you agree that a guest should be defined as someone who accompanies the member to a sporting activity and is not charged a fee by the club? If not what alternatives would you suggest and why?

Yes, that is a good definition. However, almost all golf clubs charge a guest green fee, which typically is a discount on visitor green fees. This discount

can be modest (say £5 on a typical visitor fee of £25) but can also be substantial, namely more than £100 at some exclusive golf clubs.

In the England Golf submission, they state that a guest fee is well understood and go on to say that a visiting group or individuals are guests. This is an over-simplification. If a visiting golfer is introduced by a member he is a guest. If he is not, he is a visitor and pays a different rate. The definition proposed in Question 23 would eliminate this confusion and makes it clear what a guest should be.

Q24 – What are the pros and cons of each of the options?

Option 1 – Members income test, would work for golf. A lot of clubs generate significant levels of income from visitors, many of whom are not associated with a member. This test will effectively pick up those clubs generating significant levels of non-member income whether it is from golf, or functions. This would disqualify from CASC those clubs which are unfairly competing with other local businesses.

Option 2 – Basic income test, would not work for golf due to the significant levels of non-member green fee income, which is sporting income.

Option 3 – Different levels for different sorts of income test, is too complex and does not address the visitor green fee income which is such an issue for golf clubs.

Option 4 – Days open test is not relevant for golf as most courses are open year round.

Q25 – Which option should the Government consider adopting? What are your reasons?

The government should adopt Option 1 as it takes into account the level of non-member sporting revenue which none of the other options address. It is also cheap and easy to implement, with many Point of sale systems keeping track of member sales. In the event that the Club uses simple tills, then a £100 basic till can be used to keep track. The assertion by England Golf that this option is 'burdensome' is simply not true.

Q26 – Are the suggested thresholds set at the right level? Should they be increased or decreased? What are your reasons?

The thresholds should be 10% of turnover and up to £25,000 of non-member income. If these levels are any higher in golf, this enables member's clubs to unfairly compete with proprietary golf clubs. If golf clubs are truly CASCs, then the levels of non-member turnover, should be nominal.

Q27 – If none of the options is suitable, why is this the case? What alternative options would you suggest and why?

Current Government policy on CASC, and the failure by HMRC to enforce UK VAT and Corporation tax law relating to member golf clubs is creating massive distortion in the golf market. The adoption of options 1 provides some protection for the proprietary golf sector.

Q28 – What are the one off or ongoing administrative costs? Please provide details of these.

Any club wanting to comply as a CASC would have to show that its non-member turnover was less than the thresholds. There would have to be a rigorous system for checking same. Most point of sale systems currently in use in golf can perform this split very simply. In the event that a club does not have such a system, the purchase of an extra till for as little as £100 would create the system for compliance.

Q29 – Should the Government allow companies that are wholly owned by a CASC to be able to make qualifying Gift Aid donations to the CASC that owns the company? Please give reasons for your view?

This should not be allowed under any circumstances as it will only lead to further schemes to avoid business rates, using CASC.

Q30 – Should the Government consider extending this to all types of company? If so why?

This should not be allowed under any circumstances as it will only lead to further schemes to avoid business rates, using CASC.

Q31 – Do you agree that the exemptions on trading activities and rental income should be increased to £40,000 and £25,000 respectively? If not, what figures would you suggest and why?

They can remain. However the trading income limit is largely irrelevant as those golf clubs in CASC are not paying any meaningful corporation tax due to the mis-declaration of visitor green fee income. A limit of £25,000 on non-member income, which would need to be rigorously enforced, would alleviate this concern.

Q32 – Do you have any other ideas and suggestions for improving the CASC scheme? All suggestions will be considered as part of the consultation process.

Why does the golf industry have differing views on CASC?

Up to the 1980s the golf industry in England was dominated by Member's Clubs, namely clubs owned and run by the members, for the members. There were also a number of local authority owned Municipal Courses and a relatively small number of commercially run operations.

The golf landscape changed dramatically as a result of a report published by the R&A, one of the governing bodies of golf, in 1989. This report, entitled 'The Demand for Golf', outlined the need for over 600 new courses in the United Kingdom, largely in England. Not surprisingly, this sparked a massive golf course building spree, with over 700 courses built since 1989.

Unfortunately the data in the report was inaccurate with the number of golfers on waiting lists to get into golf clubs being massively over-stated, due to double and triple counting golfers who were on more than one waiting list. As a result the golf industry today is facing a crisis with massive over supply and a lot of clubs in financial difficulty.

Golf England, and its predecessors the English Golf Union, is one of the representative bodies for golf, the other being the Royal & Ancient Golf Club of St Andrews, now known as the R&A. Before 1980, they could quite rightly have claimed to represent the interests of the majority of golf clubs as the majority were Member's Clubs.

However, with the explosion in golf course construction in the 1990's the face of golf changed forever, with the addition of over 700 new courses. These businesses have very different interests from the Member's Clubs, but Golf England has failed to recognise this. It is clearly impossible for England Golf to properly represent the interests of those that own and operate golf courses, as their Chief Executive, David Joy has recently stated that:

“... I would not be in favour of the private members clubs being taxed in order to level the playing field.”

There are 2,600 golf clubs in the United Kingdom, 916 are proprietor owned. Of these proprietor owned clubs, 149 are represented by the UK Golf Course Owners Association, (UKCGOA) who have very close links with Golf England. The remainder, some 767, are represented by the Association of Golf Course Owners (AGCO) who have been campaigning for fair treatment of tax and VAT for Proprietor/Company owned golf courses since 1992.

This history is very important as the 767 proprietor owned clubs, represented by AGCO, have very different interests from Golf England as is demonstrated by their submission on CASC, which reflects the interests of only Member's Clubs. The UKGCOA, whilst sharing the same interests as AGCO, have chosen to try to effect change in the golf industry through a close relationship with Golf England. Consequently, their views are consistent with those of Golf England.

The crux of CASC

The CASC scheme was set-up for genuine member run clubs such as local cricket clubs who will hold the odd function or fund raising dinner. A very few golf clubs fall into this category, where the vast majority of income is from members.

Most Member's Clubs, however, advertise for visitors to come and play their courses, are open for functions for the general public and are commercially motivated. The profit generated from these activities is used to reduce the annual subscriptions of the members.

As these activities are commercially motivated Member's Clubs should be charging VAT on all their activities and paying Corporation tax. Similarly, they should be paying Business Rates at the prevailing rate. The key is that many Member's Clubs categorise their green fee income as 'Membership' income because they claim that these customers are Members for a day. Thus a Member, a Member's Guest and a Visitor need to be defined very carefully to prevent clubs from working around any new CASC regulations.

The consultation document describes 4 options in Section 7 for income qualifying conditions. Option 1 is the one that must be adopted as it is the only one which properly addresses non-member income. Suffice to say, this option goes hand in hand with strong definitions for members and non-members and an absolute cap on total cost of membership of £1,040.

Conclusion

If the suggestions herein are adopted for a CASC, proprietary clubs could never qualify and most member golf clubs would be disqualified. Golf either needs to be a special case, where all golf clubs are permitted to be CASC's, or the new rules governing CASC's need to be as outlined above and be rigorously applied to the Member's Clubs, with particular attention to their visitor green fee income.

If visitor green fee income is anything more than incidental, which would be achieved by adopting Option 1 with limits of 10% and £25,000, It makes a mockery of the whole CASC process. Any solution that does not take account of this aspect will exacerbate the golf market distortion produced by the CASC benefits and ensure the tax payer continues to subsidise Member's Clubs.

For and on behalf of the Association of Golf Course Owners (AGCO)

Richard Haygarth, Chartered Accountant

Board Member of the Association of Golf Course Owners

Former Partner with PriceWaterhouseCoopers

Owner

Chichester Golf Club

Hill Barn Golf Club, Worthing

Horton Park Golf Club, Epsom