

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

North Region: Peter Roberts. South Region: Ross Noades.

Fighting for fair VAT and tax in golf for 22 years

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December 16th 2015

County Union Secretaries and Treasurers

Dear Sir or Madam,

VAT Judgment TC/2014/02569/02571/02574 – affiliation fees are not disbursements

The judgment in the above VAT cases received on 11th December confirms that affiliation fees to England Golf and county golf unions cannot be treated as disbursements. In other words owners of proprietary clubs cannot pass the fees on to their golfers VAT exempt. The constitutions of England Golf and those county golf unions that have followed them are wrong.

The full judgment will shortly be available on line from <http://www.financeandtaxtribunals.gov.uk/>

What does this mean for county unions? It means that England Golf and county unions should immediately take steps to correct their constitutions. They should take out any reference to affiliation fees as disbursements. It also means that proprietary club owners can no longer collect and be liable for affiliation fees for counties and England Golf. They cannot pass on the fees as VAT exempt disbursements. Any proprietor passing on your fees to a golfer will have to add VAT to them, meaning that the affiliation fee to England Golf and counties is higher for members of a proprietary club than a members' club and that cannot be.

Until constitutions can be corrected and unions adopt a method for collecting fees direct from golfers the collection of 2016 must be left in abeyance. In particular it is essential that unions do not attempt to raise invoices to proprietary clubs for 2016.

The long running issue is the attempt by England Golf to make golf clubs rather than golfers liable for the affiliation fees, basing numbers on a headcount from the previous year, CONGU handicap lists, demanding money before clubs can collect it and fees for golfers from whom a fee cannot be collected by the club.

Proprietary clubs could only assist with the collection of fees on an agency basis providing that constitutions are changed to make it clear that the fee is the liability of the golfer, that the owner is not liable if the golfer does not pay – effectively making it optional – and payment can only be passed on if and when it has been paid by the golfer.

On that basis the same must clearly apply to members' clubs, making the fee the liability of the golfer and not the club and effectively optional.

The England Golf constitution, followed by most counties, has clearly said that the liability for the fee is that of 'the club' and not the golfer. In other words, if a golfer does not pay, the club must pay for him. England Golf CEO, David Joy, confirmed that it is the proprietor/business of the owner that is

liable for the fees. His ruling formed part of the tribunal judgment. Most county golf unions have followed England Golf's lead and made businesses responsible and that is wrong.

We must apologise for leaving this so close to the end of the year but, although our case was heard in the tribunal in London in March, the judgment has only just been issued.

It is now clear that the collection of affiliation fees for counties and England Golf must be delayed until constitutions are changed, reference to 'disbursements' is removed and some mechanism for collecting fees direct from golfers can be adopted. And the same clearly applies to the Golf Union of Wales, Scottish Golf and the Ladies' Golf Union, which all follow the principle of the club being liable for the fee. Now it must be individual responsibility.

It also has ramifications for the Council of National Golf Unions (CONGU) which refers to clubs paying a 'per capita levy'. In effect this tribunal judgment means that the 'per capita fee' is a thing of the past and the golfer himself/herself must be liable for the fee. That is certainly the case for proprietary clubs and presumably member-owned clubs will want the same to apply to them.

Please remember that the Association of Golf Course Owners has done everything possible to resolve this in the past. All the England Golf documentation, roadshows and discussions on governance in 2015 and collection of affiliation fees has failed to take into account VAT law.

In February 2013 we invited every county secretary from men's and ladies' English county associations to meet with the AGCO committee at Abbotsley so that we could explain the problems of VAT and affiliation fees. Only the Hertfordshire secretary, Louis, attended. The Bedfordshire secretary apologised for being unable to attend. No one else attended or responded, presumably encouraged not to attend by England Golf. 10 members of the AGCO committee were there to help.

We have written to and attempted to meet with England Golf on several occasions to explain the issue and on every occasion have been rebuffed. As a result of their refusal to listen, England Golf has placed the men's county golf unions and themselves in a perilous position over the VAT on affiliation fees. Some treasurers of ladies' county associations have sensibly ring-fenced their funds to keep them separate from the men's funds.

In the end we had no option but to refer this to a VAT tribunal and won our point.

The point, which remains at issue and will probably give rise to an appeal, is how proprietary clubs recover VAT which they have wrongly had to absorb when county golf unions (and in fact the Golf Union of Wales) have not been VAT registered.

If you would like a copy of the VAT decision emailed to you before it is available on line from the court system, please email me on viv@viv.co.uk also giving me an email contact for your county.

Yours sincerely,

Vivien Saunders

Vivien Saunders – for the Association of Golf Course Owners (1993)