

MOTORSPORT - HOBBY OR BUSINESS ACTIVITY?

Good news for tax deductible business expenditure on motorsport

INTRODUCTION

A recent decision of the Special Commissioners, adjudicating on a dispute between HM Revenue and Customs (“HMRC”) and a businessman with an interest in motorsport, provides some welcome news for taxpayers who wish to use their interest in motorsport to promote their business in a tax efficient way.

IS MOTORSPORT A HOBBY?

HMRC states that, as a body, it has no fixed adverse view on the use of motorsport as a means of advertising and promoting a business. However, any businessman with a personal interest in motorsport who incurs expenditure on that motorsport for business promotional purposes can expect to be faced with an Inspector of Taxes contending that the expenditure is being incurred for the furtherance of the individuals “hobby” rather than for valid business commercial reasons.

Very often it is precisely because an individual has an interest in, an enthusiasm for, or an identifiable name in motorsport that he would be able to use that to good effect to promote his business interests. There may of course be some individuals tempted to use the business bank account to help fund their personal hobby, and such hobby expenditure would not be deductible, but it all depends on the facts. This is an all or nothing issue. Either the purpose of the expenditure is to promote the business, in which case it is wholly deductible and any personal benefit is ignored, or it is primarily to fund the individual's hobby, in which case it is wholly disallowed and any part-business purpose is ignored.

Unfortunately, individual Inspectors of Taxes far too often simply take the view that because the individual is personally interested, the expenditure incurred by the business must automatically be personal expenditure and wholly disallowed, and where an inspector adopts that stance it is extremely difficult (sometimes impossible) to convince him or her to the contrary, even though there is a perfectly justifiable business case. Where taxpayers have a good business case, but are faced with an intransigent Inspector refusing tax relief, the only realistic course is to take the matter to the Commissioners. The Commissioners are independent of HMRC and will be open to both sides' arguments with a view to deciding the matter objectively rather than starting from any biased view point.

RECENT DECISION IN FAVOUR OF THE TAXPAYER

The recently published Commissioner's decision, *R S McQueen v HMRC*, Sp C 601, involved the proprietor of an unincorporated business operating a minibus and coach transport service who was an amateur rally driver. Having achieved some personal success as a rally driver the individual decided that motor rallying would be a good way of marketing his transport business and the business therefore sponsored his involvement in rallying. HMRC contended that the purpose of the rallying was to advance the individual's personal rallying career and that any benefit to the business was incidental to that personal purpose, so all the expenditure should be disallowed.

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However, the Commissioner came to the following decision:

“My conclusion therefore is that Mr McQueen was using his skill and enthusiasm for motor rallying as the best means available to him for promoting thebusiness. He enjoyed it and it has given him satisfaction in just the same way as running an evidently successful business has done. Nonetheless the securing of the private satisfaction of success on the rally circuit can, in my view, properly be described as an incidental effect of the payment.”

The Commissioner therefore allowed all of the costs.

SUMMARY

In order to win this sort of argument the taxpayer must be prepared to be able to put forward a good commercial case. This is something that needs to be considered from the outset and appropriate steps taken to ensure that a quite clear commercial strategy is decided upon, pursued and evidenced. A sensible strategic approach initially should enable taxpayers who incur expenditure on motorsport genuinely with a view to promoting their business to feel comfortable they can present a robust case to their local Inspector. In the face of an Inspector not open to objective presentation, the taxpayer should seriously consider taking his case to the Commissioners who will decide the matter in an independent and objective fashion. A Commissioner's decision in favour of the taxpayer on this particular point is very difficult for HMRC to appeal against, so there is little risk of becoming embroiled in expensive court cases.

Rawlinson & Hunter
Chartered Accountants
Eagle House, 110 Jermyn Street
London SW1Y 6RH

and at
Lower Mill, Kingston Road
Ewell, Surrey KT17 2AE

T +44 (0)20 7451 9000
F +44 (0)20 7451 9090
E firstname.lastname@rawlinson-hunter.com
W www.rawlinson-hunter.com

Partners

Philip Prettejohn FCA
Bob Drennan FCA
Simon Jennings FCA
Chris Bliss FCA
James Kelly FCA
Mark Harris FCA
Frances Stephens ACA
David Barker CTA
Kulwam Nagra FCA
Ben Melling FCA
Paul Baker ACA
Sally Ousley CTA
Derek Rawlings ACA

Directors

Mike Cunningham ACA
Anne Fairpo CTA
Nigel Medhurst AIT
Graham O'Connell ACA

Consultants

Ken Dent FCA
Ralph Stockwell FCA

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