



CASC and Trading Subsidiaries: Issues that may be relevant to rates liability

This guidance sets out high level issues and guidance to be considered when a Community Amateur Sports Club (a “CASC”) sets up a trading subsidiary to run part of what had been the club’s activities. All cases will turn on their specific facts so if in doubt, a club should take its own legal advice.

1. As a CASC, you benefit from an 80% reduction in liability for Non-Domestic Rates (referred to in this guidance as “Rates”). The qualifications for that reduction are that (i) the property that is subject to Rates (technically termed the “hereditament”) is occupied by the CASC, and (ii) the hereditament is used wholly or mainly for the purposes of the CASC (and other CASCs if that applies).
2. Three issues may arise where a trading subsidiary is set up to run some of the activities of a CASC.

Clubhouse as a whole

3. Firstly, there are now two legal entities occupying the hereditament (namely the CASC entity and the trading subsidiary). The Rates reduction will only be available if the “exclusive”, or main, occupier is the CASC. The legal test for which of two occupiers is the exclusive occupier is which of them is in overall control of the use of the property. That is unlikely to be a problem in most cases, but clubs should avoid for example granting the trading subsidiary any rights to control the use of the clubhouse.

Defined areas within the clubhouse (e.g. the bar)

4. Secondly, if the trading subsidiary has the exclusive use of a defined area of the clubhouse, this might result in that area being treated as a separate hereditament, which is occupied by the subsidiary; this means that Rates would then be payable in full by the subsidiary for that area. This is likely to be the case where a particular identifiable room or other area of the clubhouse, such as a bar or shop, is used only by the trading subsidiary and not kept open for general club activities (and for example is locked when not in use as a bar). If the bar area, for example, is also used for meetings and other social or club events, and members have access to it at times it is not used as a bar, then there is unlikely to be a separate hereditament. This would mean that the area is not separately liable for Rates.

5. Even if there is an area in the sole use of the trading subsidiary, the club may still remain the exclusive occupier if it has control over the use of the area, and this is exercised for the club's own purposes. Ways in which the club can establish this are, for example, control over opening hours, requirements as to what is and is not offered for sale and at what price, restrictions or a right of veto/approval as to who can be employed, and other similar controls, ideally set out in a written contract. The club's position will be strengthened if it can show that the control is exercised for its own purposes, e.g. the sale of its merchandise or providing a social facility for its members (rather than being rented out more often – see below).

Time used for each purpose

6. Thirdly, to qualify as being “used wholly or mainly for the purposes of the CASC”, the premises must be used more for the purposes of the CASC than for any other purpose. If the club has sufficient control over the activities of the trading subsidiary (see paragraph 5 above) so that it can be seen to be providing services that serve the purpose of the CASC, then this should not be a problem. However, just in case, clubs should try to keep a record of the proportion of time that the premises are used by the trading subsidiary (e.g. a bar being hired for a private function not connected to the CASC), to show that this does not exceed the use by the CASC (e.g. the bar being available as a social facility for its members).