



# Income from sporting testimonials

Changes to legislation mean that the proceeds from all sporting testimonials and benefit matches will in future be liable to income tax and NICs. As a result, there is only a short window in which sporting testimonials and benefit matches can be arranged where the income generated will be subject to the pre-existing rules and therefore potentially not taxable. Once the changes take effect, organisers need to be aware of the changes and ensure they are operating PAYE and deducting NICs where required.

Currently, the tax treatment of payments from sporting testimonials and benefit matches is governed by HMRC guidance. This guidance, broadly, provides that, where the right to a testimonial match forms part of the sportsperson's contract of employment or is a customary right, the payment will be subject to income tax and National Insurance Contributions (**NICs**). However, where there is no such contractual entitlement or customary right, the payments are not treated as earnings but as gifts, made in recognition of the contribution of the sportsperson. This approach is in line with leading judicial authority which has been to treat the proceeds of a testimonial as a gift **[1]**.

In the 2015 Summer Budget, the Government announced that it would be consulting on changes to the tax treatment of income from testimonials and benefit matches. Following that consultation, the Government confirmed its intention to introduce new legislation which will treat all income from sporting testimonials and benefit matches for an employed sportsperson as employment income and therefore chargeable to income tax, and liable to employee and employer NICs.

The legislation will include an exemption covering the first £50,000 of income received during the testimonial year. This will be a lifetime exemption, i.e. it can only be claimed once by a sportsperson, and will be available for 12 months from the first testimonial event. This exemption will not apply where there is a contractual entitlement or customary right to the testimonial or benefit match. These payments will continue to be taxed in full.

The new income tax legislation, which will be contained in the Finance Act 2016, will only apply where (1) the event takes place after 5 April 2017; and (2) the testimonial is granted or awarded on or after 25 November 2015. The Government intends to introduce separate legislation regulating the National Insurance treatment, which will follow the income tax treatment.

Independent testimonial committees are often responsible for arranging testimonials/benefit matches, in part to ensure that the employer is removed from the arrangement, diminishing the possibility of the income being treated as (and therefore taxed as) employment income. However, once the changes come into effect, the tax treatment described above will apply irrespective of whether the testimonial/benefit match is arranged by the sportsperson's club or by a testimonial committee. Once the new changes come into effect, committees will need to ensure that they are ready to operate PAYE and account for NICs, including employer's NICs.

For those intending on donating the proceeds to charity, HMRC have confirmed that Gift Aid and Payroll Giving will be available to sportspersons donating their testimonial income. However, disappointingly, HMRC have declined to extend any form of tax relief for charitable donations to the NICs charge.

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## [1] Reed v Seymour 11 TC 625

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