

## Taxing Talent: Principle and Pragmatism

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Our legal specialists review the latest developments in tax law and offer a practical insight on how these may affect you and your clients.

The United Kingdom's approach to imposing income tax on international sporting superstars has been developing pragmatically, even cynically, for a decade. This article, first published in *Sweet & Maxwell's International Sports Law Review - Issue 1/16*, looks at some of the ways the UK taxes sportsmen who work within the jurisdiction, but then provides 100% tax breaks so as to attract top events or performers.

### **The Agassi case**

Her Majesty's Revenue and Customs seems often to choose to litigate points of principle against people who enjoy great personal popularity, with sportsmen and entertainers among their favourite targets.<sup>2</sup> In keeping with this traditional practice, in 2004 the UK tax authorities went head to head with Andre Agassi on the issue of taxation of his endorsement income, received through Agassi Enterprises Inc. It became a four-set match, with the last set fought in the House of Lords.

Andre Agassi - eight-time Grand Slam singles champion, Olympic gold medallist and one of only five male singles players to achieve the career Grand Slam in the open era - lived the nomadic existence of a successful international sportsman during his professional career from 1986 to 2006. Domiciled in the USA and never resident in the UK, he had set up a company which he controlled - Agassi Enterprises Inc (AEI). AEI had no tax presence in the UK. On 1 January 1995 AEI entered into an endorsement contract with Nike Inc, and on 1 January 1999 a similar contract with Head Sports AG. Neither Head nor Nike had any tax presence in the UK either.

Under these contracts, AEI received payments from Nike and Head during the 1998/99 tax year: they were payments made by foreign companies to a foreign company in respect of foreign endorsement contracts. But they were referable to Agassi's participation in tournaments in the UK in the limited sense that his world-wide fame, and his attraction as an endorser of products, stemmed in part from his successes in SW19 and elsewhere.

Agassi submitted his self-assessment tax return for the 1998/99 tax year declaring endorsement income of £7,206 from Head and £33,755 from Nike. The Inland Revenue opened an enquiry into the return and increased the charge to tax.<sup>3</sup> Mr Agassi appealed against the notice of Revenue amendment to the Special Commissioners, along with two other

international tennis players who brought conjoined appeals on similar issues.<sup>4</sup>

The issue that arose for determination in respect of Agassi was a narrow and technical one, namely whether income paid by a non UK-resident company to another non UK-resident company fell within the provisions of the Income and Corporation Taxes Act 1988 ss 555-556 and Regulations 3 and 6 of the Income Tax (Entertainers and Sportsmen) Regulations 1987.<sup>5</sup> The provisions which applied to Agassi had their statutory origin in the Finance Act 1986.<sup>6</sup> They addressed particular problems with taxation of foreign entertainers and sportsmen who might earn fees or prize money from performing a trade, profession or vocation in the UK. The background to the technical issue was the OECD<sup>7</sup> Model Tax Convention on Income and Capital, Article 17 of which relevantly provided that income derived by an athlete resident in one contracting state, from his personal activities as such, exercised in the other contracting state, may be taxed in that other state. The effect, when incorporated into the relevant UK/USA Convention, was that an athlete who was a US resident could be taxed in the UK on his income derived from his athletic activity. How this affected payments made to the athlete's company was not expressly addressed by the Convention. As neatly summarised by Lord Scott of Foscote, the problem came down to this:<sup>8</sup>

[First], was a person who made only single or infrequent visits to this country, e g, playing in, say, two tennis tournaments, carrying on a trade, profession or vocation in this country? Second, would income arising from commercial endorsements, e g wearing Nike tennis shoes and playing with a Head tennis racquet, be regarded as part of the profits or gains of carrying on the trade, profession or vocation? Third, the [tax] charge only applied to the person carrying on the trade, profession or vocation. Would payments made to a foreign company, albeit controlled by the person exercising the trade, profession or vocation, be caught by the charge? And, fourth, collection of the tax from a foreign entertainer or sportsman, whose visits to this country might be sporadic and who would often have no assets in this country, was not always practicable. This was particularly so because the basis of assessment was the preceding year basis. These were the problems that were addressed in the 1986 Act by provisions that became, on consolidation, sections 555 and 556 of the 1988 Act.

The solution adopted by s 555(2) was this:

Where a payment is made (to whatever person) and it has a connection of a prescribed kind with the relevant activity, the person by whom it is made shall on making it deduct out of it a sum representing income tax and shall account to the Board [the Inland Revenue] for that sum.

The prescribed kind of connection and the relevant activity were identified by regulations. It is fair to say that the statutory scheme looked very like a collection mechanism, and not very much like a mechanism for charging tax.

The Inland Revenue were successful at first instance where the Special Commissioners (Dr Avery Jones and Theodore Wallace) examined the equivalent pre-consolidation provisions, those in the Finance Act 1986 Sch 11 para 6(2). They held that s 556 of the Act of 1988 did indeed apply to payments made by non-residents to non-resident companies such that Mr Agassi had been correctly assessed to income tax in the UK for the 1998/99 tax year.<sup>9</sup> So the result was the somewhat counter-intuitive one that foreign companies making payments to other foreign companies were to be obliged to deduct and account for tax chargeable as a result of a foreign individual performing in the UK. In the High Court Lightman J upheld the decision, proceeding on the basis that Parliament's intention in enacting what had become ss 555-556 was to extend the ambit of the tax charge on trading income to prevent avoidance and evasion.<sup>10</sup> The obligation to deduct and pay over tax was therefore imposed on the person making the payment (in this case Nike and Head), irrespective of whether or not the payer had any UK tax presence. The view of Lightman J was that to attribute to Parliament an intention that liability to tax could be avoided by the simple mechanism of channelling an endorsement payment through a non-UK resident company would lead to absurdity, and easy frustration of the presumed legislative objective.

Agassi appealed to the Court of Appeal where Buxton, Sedley and Jacob LJ reversed the decision.<sup>11</sup> The Court held, on the basis of the general principle that legislation had no extraterritorial effect, that the collection obligation imposed by s 555(2) had no application where those making the payments had no tax presence in the UK. Relying on the territorial principles espoused by the House of Lords in *Clark v Oceanic Contractors Inc*<sup>12</sup> the Court of Appeal focussed particularly on the difficulty of enforcing the liability

against the person making the payment. It treated the difficulty of enforcing the liability (if established) as importantly relevant to whether the liability existed.<sup>13</sup> The obligation imposed on the payer was not only burdensome but also penal; this further suggested that it was not intended to extend to persons outside the jurisdiction.<sup>14</sup>

In the House of Lords Mr Agassi (now defending his victory in the Court of Appeal against the Revenue's appeal) repeated his contention that s 555(2) ICTA had an implied territorial ambit and applied only where the payer had a tax presence in the UK.<sup>15</sup> The Judicial Committee (Lords Nicholls of Birkenhead, Hope, Scott of Foscote, Walker of Gestingthorpe and Mance) allowed the appeal (Lord Walker dissenting). Lord Scott, delivering the leading speech, considered that the territoriality principle could not be implied to limit the effect of the clear language of s 555(2). The ease with which the liability imposed by s 556 could be avoided by ensuring any endorsement payments were paid by foreign entities would render payment of the tax to all intents voluntary, which could not have been Parliament's intention. Further, a potential disapplication of s 556 envisaged by s 556(5)<sup>16</sup> required attention to the nature and status of the payment, not to the identity of the payer, which was held to be irrelevant.<sup>17</sup>

Lord Walker of Gestingthorpe dissented, pointing out that at the time the Finance Act 1986 was enacted, followed by the making of the enabling Regulations of 1987, the main mischief for the Inland Revenue to address may have been the ability of an international musician, golfer or tennis player to arrive and spend a fortnight performing in the UK, collect his or her share of the prize (or gate, etc) money and depart with it tax free. The effect of s 555(2) was to compel the promoters of the event (likely to be UK resident, or at least to have a UK tax presence) to deduct basic rate tax on making a payment. But it did not necessarily follow in 1987, he considered, that Parliament intended that UK tax ought to be paid in respect of a non-resident sportsman's merchandising income received overseas from a manufacturer which was not resident and had no tax presence in the UK, and particularly when the House of Lords had recently considered the matter so thoroughly in *Clark v Oceanic Contractors Inc.*

Notwithstanding Lord Walker's powerfully reasoned dissent, the principle in *Agassi* survives<sup>18</sup>, and foreign sportsmen performing in the UK are taxable in respect of a share of their foreign earnings.

## 10 years on from *Agassi*

As mentioned, s 556(5) of the 1988 Act envisaged the possibility that the provisions in play in *Agassi* might be disapplied by regulations. Indeed, it was mentioned in argument in *Agassi* in the House of Lords that the provision might be used by Parliament to exempt income earned by those participating in the then-forthcoming Olympic Games of London 2012. The extent of concessions to exempt foreign sports performers from tax is now widespread. Such concessions are an overt feature of Government policy. There is an increasing willingness to extend tax concessions to visiting sports stars and entertainers in order to secure their participation in UK sports events. Recent notable examples of events where the participants enjoyed such a tax break include the following:

- For the 2011 Champions League Final at Wembley between Manchester United and Barcelona an income tax exemption was provided to any employee or contractor of an overseas team competing in the final, who was neither UK resident nor ordinarily UK resident at the time of the final, in respect of income arising to that person which was related to duties or services performed by the person in the UK in connection with the final.<sup>19</sup>
- For the 2012 Olympic and Paralympic Games in London, the London Olympic Games and Paralympic Games Tax Regulations 2010<sup>20</sup> were made under the Finance Act 2006 s 68. They implemented tax commitments which the UK had been obliged to give in bidding to host those games. They provided widespread income tax exemptions for (what must have been thousands of) non-UK resident accredited individuals including competitors, media workers, Official Body representatives, service technicians, team officials and technical officials.
- For the 2013 Champions League Final at Wembley between Bayern Munich and Borussia Dortmund the Finance Act 2012, s 13 largely replicated the concession enacted in the Finance Act 2010 for the 2011 final.
- For the 2013 London Anniversary Games, an athletics event hosted at the Olympic Stadium 12 months after the 2012 Olympics and Paralympics, an exemption was extended to

non-UK resident accredited competitors under the Finance Act 2013 s 8.

- For the 2014 Diamond League Athletics Glasgow Grand Prix an exemption was extended to non-UK resident accredited competitors under the Finance Act 2014.<sup>21</sup>
- For the 2014 Commonwealth Games in Glasgow an exemption was extended to non-UK resident accredited competitors under the Finance Act 2013.<sup>22</sup>
- There were no London Anniversary Games in 2014 because the Glasgow Commonwealth Games took place instead. But the concession for the Anniversary Games was given again, in similar terms, in 2015.<sup>23</sup> Further in the Chancellor's Autumn Statement on 25 November 2015 it was announced that "*the government will exempt non-resident competitors in the 2017 World Athletics and Paralympics Championships and the 2016 London Anniversary Games from income tax on their earnings from the event. 2016 will be the final year such an exemption is granted to the London Anniversary Games as the Olympic torch is passed to Rio de Janeiro*".

### Why is it done?

Hosting blue riband sports events is a competitive business, not always conducted by Queensberry Rules, as recent questions about vote-rigging in respect of the 2018 and 2022 football World Cups tend to show. There are manifold commercial and public relations benefits deriving from hosting "one-off" sports events such as the Olympics, football, rugby or cricket World Cups, and the Champions League final. By way of illustration, the 2011 Champions League final is estimated to have generated £45 million for the London economy.<sup>24</sup>

The Government shows an increasing willingness to relax tax rules as a tool to secure the right to host high profile sporting events in the UK. This has been a hard lesson, learned through past failure. Wembley Stadium lost the bid to host the 2010 Champions League final because of a failure to provide assurances of an income tax concession on the visiting teams (the highest rate of UK income tax at the time was 50%). The final was awarded instead to Madrid's Estadio Santiago Bernabéu. Spain had no equivalent direct income tax provision on visiting athletes.<sup>25</sup> The lesson was learnt swiftly. Parliament ensured the appropriate concessions

were extended in order to secure both the 2011 and 2013 finals for Wembley Stadium.

Of course, some UK events are so prestigious that a tax break to encourage the participation of overseas sports stars is completely unnecessary. For the Wimbledon tennis championships, the Open golf championship, or the Silverstone Grand Prix to name but three, there is minimal incentive for the Treasury to extend a tax concession to visiting athletes.

There are several reasons. First, these events are hosted in the UK every year so there is no risk of losing out to a competitor host nation. Secondly, the prestige of these events is sufficient in and of itself to ensure the attendance of the top performers. It is unthinkable that tax considerations alone would prevent the participation of Roger Federer at the Wimbledon Championships or Tiger Woods at the Open. The events, and winning them, are the pinnacles of their professional calendars and careers, opportunities for glory and to establish themselves as great performers within their respective sports as well as offering the attendant financial benefits deriving from performing on the highest stage. Moreover, thirdly, participation in such high profile events is almost certainly required by their sponsors by way of contractual obligations to participate if fit to do so.

Notably, no concession was extended in respect of England's hosting of the 2015 Rugby World Cup. The International Rugby Board did not make this a condition of the bid.<sup>26</sup> Further, the international rugby roster is comparatively small: only a handful of nations possess the requisite infrastructure and domestic spectator interest to host the sport's premier international event. The bidding process is simply not as competitive as for global events in other sports, and tax does not have to be sacrificed as part of the price of participation.

Tax exemptions have also effectively been deployed in respect of less prestigious international events, to all intents and purposes repeated elsewhere, which offer athletes a choice as to where to compete (for example, Diamond League athletics events).

The prospect of having to pay income tax to HMRC at 45% on direct earnings and endorsement income attributable to UK performances is one which many top athletes find unpalatable, particularly where they could perform



in a similar event elsewhere and pay substantially less in tax to the host country. In recent years:

- Usain Bolt elected not to run in the 2010 Diamond League athletics event at Crystal Palace, complaining that his attendance could end up costing him more money than he would earn because of the prohibitive tax regime in force in the UK.<sup>27</sup> Instead, he chose to compete a month earlier at the Diamond League event in Paris for which he was reportedly paid \$250,000.<sup>28</sup>
- Rafael Nadal opted not to compete in the 2012 Aegon Championship at Queen's Club, citing the "big regime for tax" which costs him money in tax on his endorsements "from Babolat, from Nike and from my watches. This is very difficult. I am playing in the UK and losing money."<sup>29</sup> Instead, he participated in the Gerry Weber Open in Halle, Germany, for which he received a reported £750,000.<sup>30</sup>
- Sergio Garcia, the Spanish golfer, has publicly said that he limits his competitive appearances in the UK due to tax concerns. Ahead of the 2010 Ryder Cup hosted at Celtic Manor in Wales, the European Tour expressed concerns about UK tax rules, suggesting that they would deter leading golfers from playing in the Ryder Cup.<sup>31</sup> No prize money is attached to that event, appearing in it would nevertheless give rise to income tax liabilities on worldwide endorsement earnings connected with it, a prospect of limited appeal for leading overseas players such as Tiger Woods and Phil Mickelson.

Government policy is said to be that a concession is available "for internationally mobile events at the top level of world sport when that is a necessary condition of the bid, or in exceptional circumstances when there is an opportunity to prolong the legacy of the London 2012 Olympic and Paralympic Games."<sup>32</sup>

The "necessary condition of the bid" criterion appears to be aimed at events such as the Champions League final where UEFA has made clear its views on footballers being taxed outside their country of residence: to no-one's surprise, they do not like it and will award the event elsewhere to counter it.<sup>33</sup>

"Exceptional circumstances to prolong the Olympic legacy" is a rather more opaque criterion. For

example, a concession was extended in respect of the Glasgow Diamond League athletics event on 11 and 12 July 2014, but not in respect of the Diamond League event in Birmingham 6 weeks later on 24 August 2014. The reasons given for the disparity in treatment were:

- that it was intended that the Glasgow event would raise the profile of the 2014 Commonwealth Games taking place in Glasgow two weeks later;
- the Glasgow event included a para-athletics competition, whereas the Birmingham event did not; and
- it was hoped that the Glasgow event would be used as a way of spreading the 2012 Olympic and Paralympic legacy to Scotland.<sup>34</sup>

One wonders how rigidly Government would have stuck to those criteria had there been a realistic danger of losing the Birmingham event to a rival city abroad.

#### Further topical considerations

Under the Finance Act 2014<sup>35</sup> the UK Government has taken power to provide by regulations for exemption from income tax and corporation tax in relation to major sporting events. The Explanatory Notes to the Finance Act 2014 summarise Government's policy as being to grant exemptions if the event is

*"world-class, internationally mobile, and where exemption by the host country is a requirement of a bid to host the event. In addition the Government has provided exemptions for events which were or are exceptionally well-placed to extend and preserve the legacy of the London 2012 Olympic and Paralympic Games."*

Since 2007, the NFL has staged regular season American Football games at Wembley and in November 2015 it was announced that the NFL had agreed a deal with the Rugby Football Union to stage a minimum of three matches at Twickenham from October 2016.<sup>36</sup> The suggestion that this transatlantic import could constitute a "world-class" event might well cause some bemusement. However, the Chancellor of the Exchequer has made it clear that he is a fan, pledging that the UK government will do anything it can to bring a permanent NFL franchise to London – a prospect that now seems to be only a

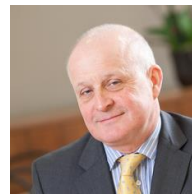
matter of time away from fruition.<sup>37</sup> Mr Osborne's enthusiasm may simply be that of a sports enthusiast, or it may have something to do with the £32 million generated for the UK economy by two NFL games at Wembley in 2013 and the estimated £102 million per season that could be generated by a permanent UK-based franchise.<sup>38</sup>

It seems that classification as a "world-class" event is now a flexible concept, dependent in significant part on potential for revenue generation for the host nation. It is undeniable that hosting international sports events has become an increasingly competitive business in recent years with Russia, China and the United Arab Emirates demonstrating growing enthusiasm to enter the marketplace. Further, the truly global superstars of sport can pick and choose in respect of their participation in many of the smaller events. If the UK will not make it worth their while, they will simply choose to exhibit their talents elsewhere.

In those circumstances, with the potential tax loss caused by an exemption likely to pale into insignificance when balanced against the potential for the yield for the UK economy through broadcasting, sponsorship and merchandising revenues,<sup>39</sup> the power to extend tax exemptions to visiting athletes will be exercised increasingly often.

There is a further recent little irony. Another feature of the Autumn Statement on 25 November 2015 was the announcement that, following consultation, the government will legislate to simplify the tax treatment of income from sporting testimonials.<sup>40</sup> Legislation can be expected in the 2016 Finance Bill. From 6 April 2017, all income from sporting testimonials and benefit matches for employed sportspersons will be liable to income tax and national insurance contributions. In addition, an exemption of up to £50,000 will be available for employed sportspersons with income from sporting testimonials that are not contractual or customary. The clarification is not unreasonable, but a UK player in a UK-hosted Champions League final might wonder, should his mind stray from the game, why the Chancellor is increasing his tax bill while exempting his opponent on the same field.

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#### Footnotes

- <sup>1</sup> For more information see [www.devereuxchambers.co.uk](http://www.devereuxchambers.co.uk).
- <sup>2</sup> *Murray Group Holdings v HMRC* [2015] CSIH 77; *Shilton v Wilmshurst* [1991] 1 AC 684; *Moore v Griffiths* [1972] 1 WLR 1024; *British Olympic Association v Winter* [1995] STC (SCD) 85; *Wisdom v Chamberlain* [1969] 1 WLR 275; *Newstead v Frost* [1980] 1 WLR 135. These are just examples.
- <sup>3</sup> Procedurally, a closure notice was issued under the Taxes Management Act 1970 s 28A(5) based, in part, on income calculations of £23,750 from Head and £102,158 from Nike. A notice of Revenue amendment was subsequently issued setting out a charge to tax of £27,520.40. These increases were modest, in context. It seems possible that Agassi or his advisers were taking a longer view of the significance of the point at issue.
- <sup>4</sup> There was no particular sensitivity about the cases, but the practice of the Special Commissioners at the time was to anonymise their first-instance decisions. The identity of a taxpayer was revealed if he appealed to the High Court but not otherwise. The decision of the Special Commissioners refers lamely to the three appellants as Mr Ball and Mr Set (this was Andre Agassi) and as Miss Deuce. The identities of Mr Ball and Miss Deuce remain an open secret.
- <sup>5</sup> SI 1987/530
- <sup>6</sup> Finance Act 1986 s 44 and Sch 11. The Regulations of 1987 were made under the 1986 Act but had effect as if made under the 1988 Act.

<sup>7</sup> Organisation for Economic Cooperation and Development

<sup>8</sup> [2006] UKHL 23, [2006] 1 WLR 1380, [9]

<sup>9</sup> [2004] STC 610, [20]-[21]

<sup>10</sup> [2004] EWHC 487 (Ch), (2004) 77 TC 686 at 709, [15]-[16]

<sup>11</sup> [2004] EWCA Civ 1518, [2005] 1 WLR 1090

<sup>12</sup> [1983] 2 AC 130. That case concerned the territorial limitations inherent in the operation of the PAYE system for collecting (not charging) tax on employment income. The House of Lords decided that the PAYE system applied to impose the obligation to deduct and to account for PAYE only on payers of emoluments who had a tax presence in the UK.

<sup>13</sup> [2004] EWCA Civ 1518, [2005] 1 WLR 1090, [28]

<sup>14</sup> *Ibid*, [30]

<sup>15</sup> [2004] STC 610, 622, [9]

<sup>16</sup> s 556(5) read “*This section shall not apply to such payments or transfers of such a kind as may be prescribed.*”

<sup>17</sup> [2006] UKHL 23, [2006] 1 WLR 1380, [17]

<sup>18</sup> The Income Tax (Entertainers and Sportsmen) Regulations 1987 remain in force. Corresponding provisions to the Income and Corporation Taxes Act 1988 ss 555-556 are now to be found principally in the Income Tax (Trading and Other Income) Act 2005 ss 13-14, the Income Tax Act 2007 ss 966-969, the Corporation Tax Act 2009 s 1309.

<sup>19</sup> Finance Act 2010 s 63, Sch 20

<sup>20</sup> SI 2010 No 2913

<sup>21</sup> s 47

<sup>22</sup> s 9

<sup>23</sup> Finance (No 2) Act 2015 s 30

<sup>24</sup> Hansard, Commons Debates, Public Bill Committee Debates, Finance (No 2) Bill, 8 May 2014 at: <http://www.publications.parliament.uk/pa/cm201314/cmpublic/finance/140508/pm/140508s01.htm>

<sup>25</sup> “*Madrid to host 2010 Champions League Final*”, Mark Ledsom, Reuters, 28 March 2008 at: <http://uk.reuters.com/article/2008/03/28/uk-soccer-eufa-finals-idUKL2890831620080328>

<sup>26</sup> “*World Cup 2015 will bring in £2bn, but there will be no Usain Bolt tax break for the big stars*”, Gavin Mairs, The Telegraph online, 25 March 2013 at:

<http://www.telegraph.co.uk/sport/rugbyunion/rugby-world-cup/9953435/World-Cup-2015-will-bring-in-2bn-but-there-will-be-no-Usain-Bolt-tax-break-for-the-big-stars.html>

<sup>27</sup> “*Usain Bolt snubs London meeting over tax laws*”, BBC online, 12 July 2010, at:

<http://news.bbc.co.uk/sport1/hi/athletics/8812123.stm>

<sup>28</sup> “*Usain Bolt refuses to race in the UK until tax laws are changed*”, Andrew Trotman, The Telegraph online, 14 August 2012, at:

<http://www.telegraph.co.uk/finance/personalfinance/tax/9475125/Usain-Bolt-refuses-to-race-in-UK-until-tax-laws-are-changed.html>

<sup>29</sup> “*Tax change may lure Rafael Nadal back to Queens*”, BBC online, 21 March 2012 at:

<http://www.bbc.co.uk/sport/tennis/17469453>

<sup>30</sup> “*Usain Bolt refuses to race in the UK until tax laws are changed*”, Andrew Trotman, The Telegraph online, 14 August 2012, at:

<http://www.telegraph.co.uk/finance/personalfinance/tax/9475125/Usain-Bolt-refuses-to-race-in-UK-until-tax-laws-are-changed.html>

<sup>31</sup> “*Euro Tour in talks with UK over taxes*”, ESPN online, 10 August 2010, at:

<http://sports.espn.go.com/golf/rydercup10/news/story?id=5451725>

<sup>32</sup> Hansard, Commons Debates, Public Bill Committee Debates, Finance (No.2) Bill, 8 May 2014 at:

<http://www.publications.parliament.uk/pa/cm201314/cmpublic/finance/140508/pm/140508s01.htm> - see comments of David Gauke MP

<sup>33</sup> “*Madrid to host 2010 Champions League Final*”, Mark Ledsom, Reuters, 28 March 2008 at:

<http://uk.reuters.com/article/2008/03/28/uk-soccer-eufa-finals-idUKL2890831620080328>

<sup>34</sup> Hansard, Commons Debates, Public Bill Committee Debates, Finance (No.2) Bill, 8 May 2014 at:

<http://www.publications.parliament.uk/pa/cm201314/cmpublic/finance/140508/pm/140508s01.htm> - see comments of David Gauke MP

<sup>35</sup> s 48

<sup>36</sup> “*NFL to play at Twickenham as three year deal is announced*”, BBC online, 3 November 2015 at

<http://www.bbc.co.uk/sport/american-football/34707958>

<sup>37</sup> See observations on the tax implications of a London NFL franchise in “*What are the key legal issues facing an NFL London franchise? Part 1 – Introduction and Taxation*”, Robert Tomback, LawInSport.com, 20 January 2015 at:

<http://www.lawinsport.com/articles/item/what-are-the-key-legal-issues-facing-an-nfl-london-franchise-part-1-introduction-and-taxation>

<sup>38</sup> “*London NFL franchise could raise £100m a year for UK, says report*”, The Guardian online, 30 October 2014, at:

<http://www.theguardian.com/sport/2014/oct/29/london-nfl-franchise-100m-uk-economy>

<sup>39</sup> For example, the direct economic impact on London of the 2013 Anniversary Games was £15.2m - Hansard, Commons Debates, Public Bill Committee Debates, Finance (No.2) Bill, 8 May 2014 at:

<http://www.publications.parliament.uk/pa/cm201314/cmpublic/finance/140508/pm/140508s01.htm>

<sup>40</sup> The treatment of one-off payments to sportsmen was sometimes a little uncertain for tax purposes. Payment to a cricketer of the gate receipts from an exceptional testimonial match where the cricketer had no right or expectation to a benefit season were not taxable in *Seymour v Reed* [1927] AC 554. But in *Corbett v Duff* [1941] 1 KB 730 there was an expectation of a benefit match and the payment was taxable. In *Davis v Harrison* (1927) 11 TC 707, a payment was taxable where made ‘in lieu of’ an accrued share of a footballer’s contractual benefit. Payments to mark England’s World Cup victory of 1966 were not taxable as emoluments from employment; there was held to be no element of reward and ‘no foreseeable element of recurrence’ (*Moore v Griffiths* [1972] 1 WLR 102. The payments were “applause for the victory”. The concept of “applause” was never likely to gain much traction as a tool of tax planning, but the loophole is now closed.