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The Budget: impact on sport and athlete earnings

In response to the global recession, the UK Government's 2009 Budget implemented new measures designed to progressively tax the wealthy. Richard Baldwin, an Independent Tax Consultant, highlights how these measures will hit professional athletes, how UK tax laws only provide limited exemptions for sport in contrast with other countries and argues that it is time for sport to take direct action to force the UK Government to change its policies.

With the economy in deep recession and public finances in meltdown, it perhaps comes as no surprise that the Chancellor of the Exchequer, Alistair Darling, did nothing to encourage sport in his Budget Statement on 22 April. On further reflection of his measures to tax the wealthy, what perhaps is a surprise is that he hit professional sport so hard. It is inevitable that income tax burdens will increase substantially for UK based and overseas based sports stars resulting in the former relocating abroad and the latter refusing to come to the UK to compete.

Community sport will also be worse off not only because of the absence of measures to encourage it despite numerous proposals from sport but also as a result of broader tax increases - for example - in fuel and alcohol duty, making participation more expensive. The finances of most sports clubs are deteriorating fast and the Budget will do nothing to halt that process. There is no prospect of London 2012 Olympic and Paralympic Games leaving a soft legacy through increased participation because of this lack of funding; the capacity is just not there.

Opportunities missed

The absence of encouraging measures is not through want of suggestions from sport. Over the last two years, I spent hours producing detailed proposals for submission to HM Treasury (HMT) and subsequent discussions with Treasury officials and Ministers including meetings with successive Financial Secretaries to the Treasury often going over the same ground, because of changes in the people involved. The proposals sport has promoted include:

- Corporation tax exemption for national governing bodies (NGBs), which are non-profit distributing entities reinvesting the majority of their surpluses into community sport generally, without any direct tax relief. The UK is the only one of 27 EU Member States recently surveyed by Deloitte which does not provide special relief or exemptions for NGBs.
- There is special tax relief for Community Amateur Sports Clubs registered with HM Revenue & Customs including mandatory business rate relief and Gift Aid on individual donations (see www.cascinfo.co.uk). Sport's proposal was to extend Gift Aid relief to membership subscriptions for juniors to provide extra funding to clubs developing junior sections.
- Seeking tax-free treatment for National Lottery grants made by UK Sport to our top athletes, including those that were so successful in Beijing.

Unfortunately, the Government's approach has been very disappointing and none of the proposals have found favour.

One proposal which was in fact instigated by HMT and where there has been progress is in relation to tax exemptions for major international events. When a NGB bids for the rights to host an international event, currently it does so with one hand tied behind its back. Other countries provide tax exemptions to support their bids - the UK does not (other than for London 2012) and discussions are taking place for similar exemptions to be granted to other events. Currently sport, through the Major Events Tax Group which I chair, is discussing suitable criteria for designating events for tax exemption with HMT. Hopefully, events meeting these agreed criteria will qualify for tax exemption, which may be as wide as those already granted for London 2012. Certainly HMT has already given a commitment not to tax overseas players appearing in the UEFA Champions League Final at Wembley in 2011. The next step will be for a paper to go to HMT Ministers on the proposal; unfortunately this will not help events regularly held here such as the Open Golf, Wimbledon tennis, cricket test matches and European football tournaments. In fact, the tax situation will be much worse for organisers of such events after April next year, as I explain below. In the remainder of this article, I will concentrate on the income tax changes introduced by the Budget, but also highlighting other major tax issues imposing extra tax costs on sport in the UK.

Tax on wealthy sports stars

Whilst the Chancellor perhaps had in mind wealthy bankers who allegedly caused the current crisis, his tax hikes will hit many more taxpayers, specifically those in the creative industries, performers and, of course, sports stars. Andrew Lloyd Webber was one of the first to identify the issue created by tax hikes in his article for The Mail on Sunday (26 April 2009) when he said:

'I write this article because I fear the inevitable exodus of the talent that can dig us out of the hole we find ourselves in'.

Just as in the creative industries, many sports people have the choice where they live; those in the UK can relocate overseas and those who live overseas can stop coming here to perform.

Sports people living in the UK

Sport has, for many years, ceased to be a domestic activity. In team sports, many overseas nationals come to live and play their sport here; for example in football cricket and rugby. In individual sports, there is less of such an influx; in fact, both UK and overseas nationals living and participating here may be encouraged to move elsewhere as a result of the additional tax burden. This will directly go against HM Government's aspiration for there to be 'a golden decade of sport' with major sports events held here attracting top overseas sports people. The Budget changes are a potential body blow. Whilst the tax burden is one of many criteria applied by a sports person in deciding where to exhibit his or her skills, it is nevertheless a very important element of the overall environment for attracting sports events and stars here.

The Budget puts the UK at a competitive disadvantage. The Financial Times 'Budget 2009' edition, on the day following the Budget, carried 'Table One', headed 'Soaking the rich', demonstrating how the UK will drop down the tax league table in relation to the burden on higher paid executives.

The major changes which the Budget introduced, increasing the UK tax burden after April 2010, are:

- A 50% tax rate for taxable income over £150,000.
- The basic personal allowance will be gradually reduced to nil for taxable income over £100,000.
- From 6 April 2011, pension contributions will only benefit from basic rate relief for those with taxable income above £180,000.

The pensions tax change in particular makes no recognition of the special needs of professional sports people, who have generally a limited career time span

The pensions tax change in particular makes no recognition of the special needs of professional sports people, who have generally a limited career time span - possibly as short as 10 years - in which to build up a pension pot. This change will severely hinder that process and will come hard on the heels of an increase in the age at which the sportsperson who is a new entrant into a pension scheme can take a pension, from 35 to 55 from 6 April 2010. The financial impact of this can be easily seen by way of an example. Say a top golfer or tennis player who lives here wins an extra £200,000 in prize money, of which he contributes £100,000 into his private pension scheme. Under the current law, he will pay just £40,000 income tax on the prize net of pension contributions. After 6 April 2011, his tax liability will jump to £80,000, i.e., it will double. Not a great incentive to remain here!

This increasing burden will also apply to players in team sports and whilst readers may not have a great deal of sympathy for footballers, their tax burden - which is often borne by their employing club - will be significantly increased. Take a footballer who is paid £1 million net of tax by his club; ignoring national insurance contributions and lower rates of tax, personal allowances etc., the tax cost borne by the club will increase by around 50% as a result of the increase in the marginal rate to 50%, giving a total cost to the club of over £2.25 million, including national insurance.

Non-resident sports people coming to play here

The general rule is that an individual who is resident outside the United Kingdom pays tax here on what he earns here. However, the Double Tax Treaties (DTT) which the UK has negotiated with most overseas countries will exempt those earnings from tax in the UK, provided certain conditions are fulfilled. The DTT will give the taxing rights to the country of residence. Unfortunately, this DTT relief do not apply to sportsmen who pay tax here on any earnings for appearing here. They are, however, allowed to take credit against the tax payable in the country where they live, but only for the overseas country tax attributable to the UK income. With higher rates in the UK, as we have already demonstrated, sportspeople will not be able to obtain full credit for any additional UK tax and a tax cost will arise.

A major problem is that in terms of earnings, we are not just talking about prize money and winnings, since the UK stands alone with the US in seeking to tax a portion of worldwide sponsorship and endorsement income. The legislation, which is quite draconian, was reinforced by the House of Lords in the case of Andre Agassi[1]. As a result, many top golfers and tennis players are already refusing invitations to play here in anything other than the major competitions such as Wimbledon and the Open Golf. At its extreme, Tiger Woods playing in the Ryder Cup in the UK for which he receives no direct payment could end up out of pocket, because he would have to pay tax on a portion of his endorsement income to the UK tax authorities. It would actually cost him money to appear!

The increase in the tax rate to 50% will exacerbate this problem; the UK will be less attractive and more players will refuse to come here. A good example of the impact this will have is the new prize monies for Wimbledon. A few weeks ago it was announced that the men's and women's singles champions will collect £850,000 each, a 13.3% rise of £100,000. Assuming these are still the levels of prize money next year and also that no British player living here wins either the men's or women's title (a fair bet), then the winner will actually be worse off as a result of next year's tax changes. In fact, although the prize money in sterling terms will increase by £100,000, the income tax liability on that prize money will increase by over £110,000 an overall reduction of £10,000. Thanks Alistair!

There is no doubt that the UK has a pernicious tax regime as it applies to overseas sportsmen and women and one is tempted to ask is it worth it in terms of the tax collected? The answer is that HMT have got no idea how much tax is collected from sports people under these rules. This is evidenced by the written answer recently given below to Hugh Robertson, Shadow Minister, Culture, Media & Sport.

'Q. To ask the Chancellor of the Exchequer what estimate he has made of the amount which accrued to the Exchequer from tax on (a) income from sponsorship, (b) income from endorsements and (c) other income earned by overseas sports people competing in the UK.

A. Stephen Timms Financial Secretary, HM Treasury

No estimates have been made and HMRC cannot extract the information requested from the data it holds.'

Sport's constant battle against tax

Darling's Budget reinforces the view that sport does not get a fair tax deal; sport at all levels is facing HM Revenue & Customs' shovel, taking huge amounts of money out of sport. I can name you just a few areas where HMRC are seeking to and are collecting substantial amounts of tax:

- In relation to image rights contracts, where they are arguing that the image rights contract have no substance and PAYE/NIC should be paid on the fee payment as it if were remuneration; when in fact the player's image is becoming increasingly valuable.
- Seeking corporation tax/income tax on testimonials and benefits from Committee Members, not the sportsman himself.
- An estimated £10 million per annum is clawed back in VAT from sports clubs which are improving their facilities - a huge disincentive to improving grass roots sports facilities.

This Budget increases the complexity of the system; it is incomprehensible to volunteers in sport (and many professional accountants). The tragedy is that the policymakers at HM Treasury don't understand its impact on sport either and will continue to introduce legislation which goes directly against DCMS policy for sport. The latter do understand sport and are doing their best to support sport's case in partnership with sport. Unfortunately, these arguments fall on deaf ears.

In my view, the time has come for drastic action; the tax burden and complexity of the system increases every year - sport should do something to counter this. It should consider removing all hospitality provided to Politicians - take away their Cup Final and Lords test match tickets - hit them where it hurts. Let the cold war begin and pray for a Government which supports its spin with action.

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1. World Sports Law Report, Volume 6 Issue 6, June 2008.

Table One*

Country	Income Kept** (%)
Japan	62.6
UK – Current (40%)	61.4
Germany	60.6
US	59.8
France	58.4
Canada	57.8
UK – Future (50%)	56.0
Italy	49.6

* Based on an executive earning £250,000, married with children and a mortgage of £750,000.
** Income after tax and social security contributions.
Source: PWC

The change in position results principally from the introduction of the 50% income tax rate as the table notes. The point is further emphasised by looking at the top marginal income tax rates for the UK and the other six countries listed which is shown below. As can be seen the UK is about to get 'relegated' with France.

Table Two - Top Marginal Income Tax Rates

Untied States	35%
Canada	35.5%
Japan	40%
Italy	43%
Germany	45%
UK	50%
France	50%

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