

Sports club subscription for employees: staff sustainability event? (3/2/19)

The State Revenue Service (SRS) has published a ruling issued to a taxpayer about classifying an employer-paid sports club subscription as a staff sustainability event for corporate income tax (CIT) purposes and about the obligation to trace the expenses to each employee. This article explores the findings of the SRS ruling and our insights.

Background

X Ltd, a taxpayer that asked the SRS to issue a ruling, owns a network of sports clubs and provides sports services. The ruling was requested for Y Ltd, a company that pays a subscription allowing its employees to visit a sports club within the X network. This option is available to every Y employee, and the company pays a constant monthly subscription regardless of how many employees take this option.

X holds details of which employees in fact visit the sports club, but X's privacy policy and the GDPR prevents the company from passing this information to Y. So, although the cost of visiting the sports club might theoretically be personalised, in practice Y is unable to do that.

X was keen to find out whether paying a sports club subscription for every employee may be treated as Y's staff sustainability event cost for CIT purposes and whether the expenses should be primarily personalised and charged to personal income tax (PIT) and mandatory national social insurance (NSI) contributions.

The SRS opinion

According to the SRS, it is up to the company to decide what staff sustainability events it organises. The SRS provides the following criteria:

1. the event is available to every employee; and
2. the expenses cannot be personalised; and
3. the event aims to motivate staff or build teams and is not designed to provide specific benefits to particular employees.

Since paying a subscription that allows every employee to visit a sports club meets the criteria, the SRS finds that in this situation paying the sports club subscription qualifies as a staff sustainability event cost for CIT purposes.

As to the requirement for personalising expenses, the SRS finds that in this situation the taxpayer is unable to do that, so the expenses cannot be personalised and do not attract PIT or NSI.

PwC comment

We have earlier read a similar SRS opinion in their other rulings and letters of advice, where they mentioned identical criteria for classifying staff sustainability events for CIT purposes, giving the company discretion to determine expenses matching this classification. So a wide variety of events may be treated

as staff sustainability events for CIT purposes.

However, a sports club subscription may not always be classified as a staff sustainability event. For example, taxes would be chargeable in a different way if the company had an agreement with its employees on individual refunds of their sports club subscriptions. In other words, if some of the employees pay their own subscription and the employer makes a refund after receiving evidence of payment, the expenses can be personalised and attract PIT and NSI. For CIT purposes the expenses do not need adding back to the company's tax base. So, in this situation the company would not classify the expenses as a staff sustainability event because they can be personalised.