

Honorariums

Advice note

This is an advice note which summarises the main legal and tax considerations for payment of honorariums. This note has been prepared by Harper Macleod LLP. BDO LLP have summarised the tax issues, which are repeated herein.

Volunteers / workforce / employment law

The position from an employment law perspective is that honorariums need to be very carefully controlled.

The view may be taken that providing a payment with a monetary value or any discernible award with monetary value may be regarded as payment for office or for services rendered or service. This could influence the tax position but the recipient may in turn use the receipt of an honorarium to suggest, if a dispute arose, that they have received payment for taking office or for services rendered / service; this may in turn be used to support the suggestion that the individual has "worker" status or "employee" status, opening up claims for minimum wage, paid leave, Equality Act compliance and further complex rights.

A small token awarded for something exceptional is likely to be viewed as truly ex gratia and in such circumstances little risk would arise. On the other end of the scale, more concern would arise if the individual was to receive a set amount on a regular basis, particularly if this was agreed or known prior to the person taking on a post.

For example, if you have a club official (President) who receives £500 as an honorarium every quarter, plus a fully-fledged expenses "account" whereby he can stay in hotels, put drinks and food against the organisation not being restricted to a reasonable amount, and they receive, for example, a clothing allowance of £300 per quarter – this could potentially result in issues if a dispute arose.

The reason for this is due to such monies being inconsistent with a person being a volunteer and receiving nothing in return for their time. Volunteers are supposed to give their time freely and without return or reward. Reimbursement of expense for actual expenditure is permissible, if the expenditure is consistent with the role.

A small luncheon voucher to a steward spending the day volunteering at a sports tournament, together with a t-shirt and cap, would not be regarded as an honorarium. Such items would be deemed appropriate as notional items given to the individual to help with their volunteering. It is difficult making an award of much more to anyone who volunteers without increasing the risk that the awards being made are in fact payments in return for services or service.

The risk can ultimately be that if a person receives too much and then falls out with the club or organisation, they could end up citing the receipt of the monies, etc., as reward for services rendered. They would not be concerned about the tax implications of such an argument because if their argument succeeded and that had an effect on the proper tax treatment of the monies or reward, the club would be found to have broken the rules on taxing payments or benefits at source. If there was an issue, the club would have to pay the tax, NI, interest, fine, etc.

Tax position

HMRC has defined 'honoraria' as a payment to an individual in recognition of unpaid services they provide as an office holder, for example, a club secretary. As such, it is regarded as a payment that should go through payroll for tax and, if applicable, National Insurance Contributions (NIC). That being said, with appropriate planning the tax/NIC can be mitigated and further advice can be provided if required.

There are many possible indirect consequences to paying honoraria, potentially including VAT. For further queries or information in respect of payment of honorariums, please contact Kelly Sleight at kelly.sleight@harpermacleod.co.uk or Mike Hepburn at Michael.Hepburn@bdo.co.uk.

This note is confidential and subject to legal professional privilege. It is a brief narration of the general issues that can arise. Specific legal/tax advice should always be taken on any individual situation.

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