

Legal And Ethical Aspects Of Sport

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Multi Arenas In Swedish Elite Ice Hockey — A Tax Challenge

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Background/problem/issue

Swedish ice hockey is by tradition built on the principles of the European Model of Sport (pyramid structure, non-profit, utility maximization, youth fostering, and promotion and relegation etc.) and governed by the Swedish Sport Confederation. Corporation is however allowed since 1999, i.e. sport plc. But, unlike business life generally the Swedish Sport Confederation don't allow full corporation, there is a so called 51-percent barrier, which means that a non-profit sport club must own the majority of votes in its sport plc. (Malmsten & Pallin, 2005). With inspiration from National Hockey League (NHL), i.e. Americanization of sport, new modern multi arenas has mushroomed in Swedish elite ice hockey during the first decade of the new millennium (Lundberg, 2009). These new multi arenas has not only created better sporting facilities. They have also created new sources for revenues and establishment of (sport) business groups. Generally, in Swedish elite ice hockey a non-profit sport club is majority (sole) owner of a multi arena throw a real estate company.

To understand some of the legal challenges that arises for clubs in Swedish elite ice hockey, and their plc.'s, take-off must be taken in the Swedish (2005: 551) Companies Act. According to Companies Act (Chap. 1, §11) a limited liability company is a parent company if the limited company owns more than 50 percent of the votes or shares in the subsidiary. A so-called mother-daughter relationship, also called a genuine business group. Similar rules are contained in the Swedish (1995: 1554) Annual Accounts Act (Chap. 1, §4). If the requisites is not met, instead, a spurious (sport) business group arises. This means directly that a Swedish sport business group is a spurious business group, due to the fact that non-profit sport club's must own the majority of votes, i.e. the non-profit sport club is parent company. This means from a Swedish corporate and tax law perspective that group contributions can't be made (Swedish Income Tax Act [1999: 1229], chap. 22 and 35). The reason why Swedish sport business groups are not allowed to do group contributions is that corporate income would avoid taxation. In addition, competition would be distorted against other business forms with other owners (Ågren, 2011).

Two Swedish elite ice hockey clubs that faced the Swedish Tax Agency's interest in light of this intricate corporate and tax law area is Leksands IF and Modo Hockey Club. The Swedish Tax Authority's interest were primary based on the question of withdrawal of assets. As a consequence, these two club's real estate companies have been convicted for withdrawal of assets for the 2006/2007 season with 2.4 million and 1.96 million Swedish crowns. The main problem and research task question is hereby to analyze how the organization and regulation of Swedish elite ice hockey and establishment of new multi arenas creates tax challenges.

Theory

Theory is not necessary for analyzing Swedish jurisprudence. However, Americanization is a valuable theory to understand the commercialization of Swedish elite ice hockey and the growth of new multi arenas, i.e. American influence and culture is received/imported/forced to a country (Alm, 2002).

Method

The study is based on jurisprudence and document analysis, primarily of Swedish legislation, case law and preparatory work. Also, publications about Swedish elite ice hockey and the American and European Model of Sport has been used. From a jurisprudence perspective, the Swedish Company Act and Income Tax Act, preparatory work and two indicative judgements from Appeal Court in Sundsvall has been analyzed. By analyzing these legal documents important knowledge is achieved from a corporate and tax law perspective.

Result

Swedish corporate and tax law can never open up for group contributions for Swedish sport business groups without tax consequences even though sport plc's has been established. This also applies to subsidiaries. The transition from the non-profit sector to the fully taxable corporate sphere has been driven by financial reasons and international influences. By incorporating the well-known benefits of public limited companies and combining these with international influences, representatives of Swedish elite ice hockey want to be competitive. Swedish Corporate Act and Income Tax Act creates challenges for Swedish sport with the 51 percent regulation, which can result in unpleasant tax consequences in case of unconsidered restructuring. This means that international influences from a Swedish corporate law and tax law perspective are not automatically transferable and applicable to Swedish elite sport. Representatives for Swedish elite ice hockey clubs should for this reason work for the removing the 51-percent regulation (i.e. full corporation). Group contributions can then be made without tax consequences.

References

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