

Public Challenges for Sports Management in Slovakia: How to Select the Optimum Legal Form of a Sport Club?

Právní problematika managementu sportu na Slovensku: jak vybrat optimální právní formu sportovního klubu?

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Abstract

There are many issues to be addressed by the manager of a sports organization/club who wishes to optimize its functioning. There are also many ways the "state" influences all entities in a society, including the sports sector. In our paper we focus on how tax and accounting rules and other public legislation influences the choice of legal form for a sports club. The data come from our own experiences and research in three sport branches – football, triathlon and orienteering. The research results are self-evident and it was unnecessary to validate them with statistical analysis – the size of the budget and probably also the structure of revenues are the main factors influencing the decision on the legal form of a sports club.

Keywords

public finance, sports, football, triathlon, orienteering, legal form of a sport club

Abstrakt

Manažer, který chce optimalizovat fungování své sportovní organizace/klubu, musí řešit řadu problémů. Je také celá řada způsobů, jak „stát“ ovlivňuje veškeré společenské subjekty, sportovní sektor nevyjímaje. V naší práci se soustředíme na to, jak daňové a účetní předpisy a další veřejná legislativa ovlivňují volbu právní formy sportovního klubu. Údaje pocházejí z našich vlastních zkušeností a z výzkumu ve třech sportovních odvětvích – fotbalu, triatlonu a orientačním běhu. Výsledky výzkumu hovoří samy za sebe a nebylo třeba je ověřovat statistickou analýzou – velikost rozpočtu a patrně také struktura výnosů jsou tím hlavním faktorem, který ovlivňuje volbu právní formy sportovního klubu.

Klíčová slova

veřejné finance, sporty, fotbal, triatlon, orientační běh, legální forma sportovních klubů

Introduction

There are many issues to be addressed by the manager of a sports organization/club who wishes to optimize its functioning. There are also many ways the "state" influences all entities in a society, including the sports sector. In our paper we focus on how tax and accounting rules and other public legislation influences the choice of legal form for a sports club.

The data come from our own experiences and research in three sport branches – football, triathlon and orienteering.

The topic is infrequently dealt with in the sports or economics literature. Much more has been written about the impact of taxation on the management of sport clubs. For example there is Clark and Miller's book (2000), and the more general Duquette (2002), and Mahony and Howard (2001). There are also specialized articles, focusing mainly on the football industry (Cant, 2006; Mitchie, 2005; Rowbottom, 2002; Ealey, 1997; Cheffins, 1997; Thorpe, 1996).

Important research in the area of public financing of non-profit organizations was undertaken by the team led by the Johns Hopkins University in Baltimore (see for example Salamon, 1999). The research covered countries from all over the world. According to this source, public support to the non-profit sector differs significantly across areas and between countries. In most new European Union members from the Central Europe state support to non-profit sport and other sectors is very important and represents about 50 % of total incomes (Raguseo, 2008).

1 Taxation and accounting rules: What is the optimum legal form for a Slovak sports club?

The first and not so simple task for managers of any sports club in Slovakia is to decide about the best suitable legal form for their organization. In the current general environment (<http://www.statistics.sk/pls/wregis/ciselniky?kc=0056>), three basic options are available:

- public body
- non-profit body
- company

We assume that the decision for the concrete legal form should be based on an analysis of the following factors:

- concrete local conditions,
- popularity of a sport, and
- the chief characteristics of the club – especially structure and size of revenues in relation to valid tax legislation.

In the following sections we provide basic information about possible options. Then we will test to see if there is any link between the above mentioned factors and the concrete structure of legal forms of sport clubs in selected Slovak sports.

2 Sports clubs as public bodies

This case is a relatively rare solution, but in some special cases (football, ice hockey and some other popular sports) the sports club may be established as a public organization (net budgetary organization) usually connected to a municipal budget.

A net budgetary organization (NBO) is a legal body and subject to the public law. The main law defining its status is the Law 303/1995 on budgetary rules. This organization can be established by the state administration and self-government body or by a specific law.

An NBO is connected to the budget of its establisher on the net principle – revenues and expenditures are not interconnected (all expenditures are financed from the budget of the establisher, all revenues flow to the budget of the establisher). An NBO does not have its own property, it only administers state property. An NBO cannot accept credits or establish other legal bodies, and cannot undertake entrepreneurial activities. NBOs are controlled by the Ministry of Finance, the Supreme Audit Office, the Office of Government and the establisher (Sivák, 2007).

There are some advantages, but many disadvantages in choosing this legal form for a Slovak sports club. The main advantage is short term stability of revenues, as the level of subsidy from the municipal budget is normally stable across an election period (4 years). However, there is no long term stability, for the political structure of a municipal assembly may change, and there are cases where a new mayor endangers the continued existence of a club. Municipal budgets may also have problems providing enough finance to balance top clubs in important sports¹, especially recently when the allocation system has switched from subjective to program allocation.²

From the viewpoint of taxation, this legal form is simple. The budget is balanced. Any surplus has to be returned to the municipal budget, and except for employees there are no tax obligations for the club. Current accounting rules also allow for simplified cash accounting, but for all public bodies a change to accrual accounting is expected.

Clearly this legal form of sports club would only work in local environments where the mayor or municipal assembly was ready to provide resources.

3 Sports clubs as non-profit organizations

According to the relevant legislation, the (formal) third sector in Slovakia comprises the following types of organization (Kuvikova, 2006):

A: Associations – legal persons with physical or legal persons as their members. Associations are established by the decision of the founding group and are registered by the Ministry of the Interior.

B: Foundations – purpose based funds, based on monetary and non-monetary activities that are for the public interest. The existing legislation defines possible areas for the use of foundation resources, such as protection of human rights, humanitarian activities, environmental activities, health, and education.

1 *There are many examples of very successful municipal sports clubs facing big problems because of insufficient subsidies from the municipal budget – for example the ice hockey clubs in Zilina and in Banska Bystrica, and the women's basketball club in Ruzomberok.*

2 *From 2008 all municipalities are obliged to use program budgeting, the implementation of this rule is realised in several phases.*

C: Non-investment funds – nonprofit legal persons whose associated financial funds that shall be used for public interest activities- namely activities in areas of cultural and human heritage and values; environment; maintenance of natural and cultural values and protection and development of health and education.

D: Non profit organizations delivering public services – legal persons that deliver public services in the following areas – cultural and human heritage and values, environment, humanitarian activities, education of children and youth, social and health care.

From this list it is obvious that sports clubs can choose only one legal non-profit form – an association. This form has several advantages, as associations are not subject to any specific state regulation and have free use of their own funds. Their business activities are not limited. The following main general legislative rules are important for associations (Kuvikova, 2006):

- a) Associations are free to realize business activities, but must keep separate accounts of their own and business activities.
- b) Surpluses from business activities are first subject to income tax, and the subsequent net revenue can be used for financing their own activities. The income tax exemption for organizations with net incomes below 300 000 Slovak crowns (Sk) was abolished in 2007.
- c) Associations without business activities and with turnover below a defined level³ can keep simplified cash accounting books.
- d) Associations can be registered to benefit from the system of tax assignation (originally 1 % for physical persons; but from 2004 2 % from the tax obligations of legal and physical persons). In 2005 almost 1 billion Slovak crowns were transferred to the third sector via this channel (<http://www.rozhodni.sk>), and 12 % of legal and physical persons elected to allocate their contributions for associations in sport.
- e) Associations can receive tax exempted donations, but from 2007 donations cannot be deducted by donors from their tax base or their tax obligations.

The list of main legal rules for associations indicates that especially before 2007⁴, this legal form was potentially effective for smaller clubs with limited turnover and only small business type revenues.

³ 3 mil. Sk in 2008.

⁴ *The new social democratic Slovak government elected in 2006 decided to abolish some tax exemptions and tax advantages for associations, using the argument that such special rules provide too many opportunities for the shadow economy. It also attempted to abolish the system of tax assignation, but had to abandon this goal after large scale protests from the civil society.*

4 Sports clubs as companies

Sports clubs can be also established with the legal form of companies, on the basis of the Business Code 513/1991. Companies are legal bodies of a business character with their own property and are fully financially independent. The main advantage of this legal form in sport is the possibility to cover the costs of sporting activities out of the business revenues. Only the final economic outcome of the company is subject to income taxation, so clearly the main task for the financial manager of such a club is to balance the budget to avoid income tax. On the other hand, sport clubs as companies (limited or shareholder) have to fulfill the same duties as any other business person, including using accrual accounting books, and paying VAT if their turnover is the limit.

It is apparent that a company form may work for large clubs in popular sports with many sponsors⁵ and other large business incomes.

5 Testing reality: what determines the legal form of Slovak sports clubs?

To test our conjecture that sports managers choose the legal form of their clubs on the basis of identifiable criteria, we examined some representative sports. Football was chosen as representative of "big" sport. Orienteering and triathlon represent "small to medium" sports. The selection of sports was mainly based on the authors' opportunities to gather data through personal contacts, as sport clubs have no obligation to provide public information. All data were obtained by direct field research undertaken in 2007 and 2008.

Football

There are a plethora of football clubs, so we selected representative samples. The first sample is all clubs belonging to the First/Premier League in the 2007/2008 season. The second sample is all clubs from the highest regional level: III. League in the Banska Bystrica region and the final sample is all clubs from the highest local level: "First class" level in Banska Bystrica district.

First/Premier League

All Slovak first league football clubs are companies. Their annual turnover is between 40 – 100 mil. Sk⁶. Revenues are predominantly from commercial activities. The assumption that clubs in popular sports with large turnovers and a prevalence of "business type" revenues will decide to function as private companies is reflected in this sample.

Third League in the Banska Bystrica region

Table 1 provides all the basic data about the legal status and budgets of clubs at this level. The financial data are still very approximate. All but one club are associations, and there are no municipal clubs in this sample, though one such club does play one level lower, in the IV. League of the district.

5 We distinguish between donors (providing donations from income net of tax) and sponsors (ordering – advertisement – services paid from running costs before income tax has been reduced).

6 These clubs were not willing to provide any more concrete information.

Table 1: Football clubs in the Third League in the Banska Bystrica region

Name	Legal form	Budget (estimated in SKK)
FK Rakytovce 85	Association	1 mil. – 5 mil.
MFK Lokomotíva Zvolen	Association	1 mil. – 5 mil.
ŠK Kremnička	Association	1 mil. – 5 mil.
Kinex Bytča	Association	1 mil. – 5 mil.
Družstevník Lipt. Štiavnica	Association	1 mil. – 5 mil.
MFK Nová Baňa	Association	1 mil. – 5 mil.
Sokol Dolná Ždaňa	Limited company	1 mil. – 5 mil.
Družstevník Valča	Association	1 mil. – 5 mil.
Baník Veľký Krtíš	Association	1 mil. – 5 mil.
METAL SERVIS Králiky	Association	1 mil. – 5 mil.
MŠK Námestovo	Association	1 mil. – 5 mil.
FTC Filakovo	Association	1 mil. – 5 mil.
Tatran Krasno nad Kysucou	Association	1 mil. – 5 mil.
Cementáreň Lietavska Lúčka	Association	1 mil. – 5 mil.
ŠK Javorník Makov	Association	1 mil. – 5 mil.
MŠK Kysucké Nové Mesto	Association	1 mil. – 5 mil.

Source: own research.

Table 2: Football clubs in the “Fist Class” level in Banska Bystrica district

Name	Legal form	Budget (estimated in SKK)
OFK Slovenská Ľupča	Association	bellow 500 000,-
Družstevník Priechod	Association	400 000,-
ŠK Hronec	Association	bellow 200 000,-
Družstevník Jasenie	Association	bellow 300 000,-
Tatran Čierny Balog	Association	bellow 200 000,-
MIER Mýto pod Ďumbierom	Association	400 000,-
Družstevník Baláže	Association	bellow 150 000,-
ŠK OPL Poniky	Association	bellow 300 000,-
Mladosť Lučatín	Association	120 000,-
Slovan Beňuš	Association	bellow 150 000,-
ŠK Helpa	Association	bellow 200 000,-
Partizán Osrbľie	Association	120 000,-
Sokol Braváčovo	Association	250 000,-
Tatran Harmanec	Association	bellow 200 000,-

Source: own research.

“First class” level in the Banska Bystrica district

Table 2 provides comparative data for the lowest district level clubs. The club budgets are relatively very modest, and all clubs` legal form is that of an association.

Triathlon

There are 64 registered clubs in the triathlon federation (www.triathlon.sk). All of them have the legal form of an association. The clubs` annual budgets are mostly below 1 mil. Sk. The exceptions – up to 2 mil. Sk. in special years – are due to good sponsors or significant income from tax assignments. The proportion of commercial revenues in all clubs is small to almost zero. This sample is consistent with our conjecture that sports with limited popularity, small budgets and limited “business type” revenues would choose the legal form of association.

Orienteering

There are 24 registered clubs in the triathlon federation (www.orienteering.sk). All of them have the legal form of association. The annual budget of all clubs is normally below 1 mil. Sk., and there is only one club that may slightly exceed this sum in “good” years. Most clubs do not have important sponsors or commercial activities. Again this sample is consistent with our conjecture that sport with limited popularity, low range budgets and limited “business type” revenues would decide for the legal form of association.

Conclusions

Our paper investigated interesting issue where sports management and public finance intersect. It focused on the impact of tax and accounting rules and other public legislation on the choice of the legal form of sports clubs. Three sports were included in the research sample – football, triathlon and orienteering. The research results are self-evident and it was unnecessary to validate them with statistical analysis – the size of the budget and probably also the structure of revenues are the main factors influencing the decision on the legal form of a sports club.

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