

Rangers ruling opens door to further EBT challenges by HMRC

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HMRC's successful appeal against the owners of the now-liquidated Glasgow Rangers FC is likely to lead to further challenges against Employee Benefit Trusts (EBT) and other loan and benefit schemes that have not yet gone through the settlement process, says Employee Incentives specialist Katherine Neal of Ogier.

The Supreme Court ruling delivered on 5 July unanimously dismissed BDO LLP – RFC 2012 plc's liquidators and held that payments worth around £47 million made by the former football club to more than 80 players and staff between 2001 and 2010 to an EBT and sub-trusts qualified as remuneration and should have been subject to income tax deduction at source.

The ruling is likely to spur HMRC on to further challenges to EBTs and benefit and loan schemes – with the interim director general of HMRC's customer compliance group, David Richardson, saying that the judgment had wide implication and that the tax authority "will always challenge" avoidance schemes.

Although Rangers won hearings defending the payments in the tax tribunal system in 2012 and 2014, they lost a Court of Session appeal in 2015 and last week's Supreme Court ruling dismissed their appeal against that verdict.

Katherine, Counsel in Ogier's Employee Incentives and Pension team, said: "HMRC have laid down a clear marker that they see this ruling as strengthening their hand against avoidance schemes.

"The judgment does not undermine the legitimate use of EBTs, for example in warehousing, and the ruling itself was not unexpected but it is likely that HMRC will be pursuing other schemes which have not voluntarily entered into settlement talks with them.

"Going forward, it is unlikely that any assessments to tax they issue will be anywhere near as generous as was previously available, and we would urge anyone concerned to take specialist

legal advice about their position, and the implications of this case on it."

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