

Rangers! Ramsay's back in town

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I have not had a chance to read the full Supreme Court decision on Rangers in detail as yet. I was too tired last night to do more than scan it all. But based on that reading I am extremely pleased with the decision.

The facts are simple, in essence. Over an extended period Scottish football club Rangers FC set up trusts for the benefit of its employees to which their salaries were paid. The trusts then lent the players, or other people they nominated, the sums in question. Technically these were loans repayable on death. The aim was to avoid tax and national insurance, and the case wobbled its way through various tiers of the UK legal system with the Revenue winning and then losing until the Supreme Court was reached. That court gave their decision yesterday.

All five Supreme Court judges shared the view that Rangers had sought to avoid tax and the arrangement did not work. There was no dissent, and only one opinion was offered as a result. And that opinion is emphatic in extremely useful ways to those, like me, who have no liking of tax abuse.

This is not meant to be a technical summary. Suffice to say that in essence the decision marks the complete revival of what is known as the Ramsay principle. This idea, based on a tax case of the early 1980s, says that tax law has to look at transactions as a whole to see what they are meant to achieve. This is the so called purposive approach to tax law interpretation. If when looking in this way it is obvious that the scheme as a whole was meant to avoid tax then it is taxed as if the steps that were inserted to achieve the tax avoidance goal did not occur and the facts of what really happened are taxed instead. So in this case the Supreme Court decided that football players had been paid a wage and income tax and national insurance were due under PAYE as a result, as common sense would always have dictated. The alternative contractual interpretation, which would have viewed the legality of each step in isolation, which would have permitted the abuse because each step was legal in itself, was resoundingly rejected.

The decision revolves a dispute in how to interpret tax law that has been running for twenty or so years since Thatcher inspired judges began the kick back against Ramsay

and encouraged the tax abuse industry, and artificial constructions that they sold of the type Rangers used. Those judge's attempt to block common sense tax interpretation that kills tax avoidance dead in the tracks has now itself been consigned to the history books. And that is very good needs indeed.

The full decision is available

at <https://www.supremecourt.uk/cases/docs/uksc-2016-0073-judgment.pdf> . I am having a problem with links this morning.