



# Income Tax Treatment of Esports Players under Double Tax Treaties

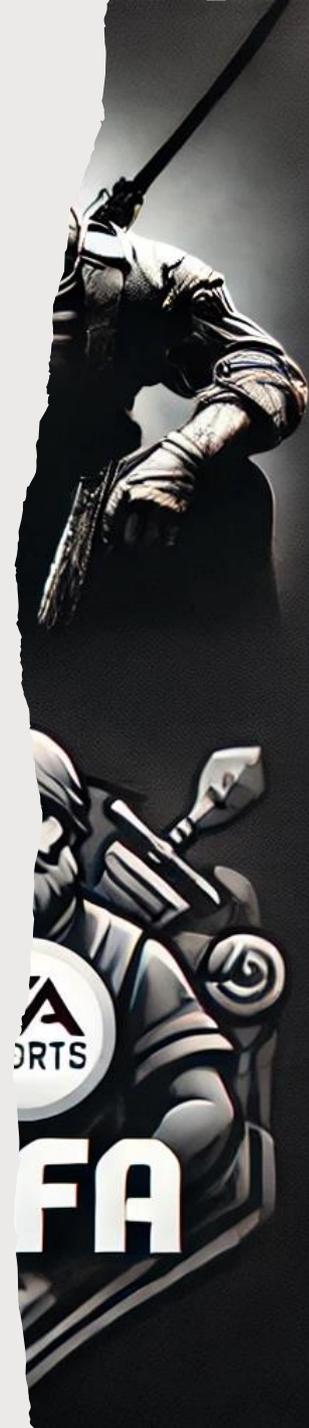
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Taxing Victories: The Intersection of Sports and Law

Presented by Juliëtte Slotboom  
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# Introduction

Who has ever played one of the following games?

- Global Offensive
- League of Legends
- Defense of the Ancients
- FIFA
- Starcraft
- Fortnite



# The Rise of Esports



- No longer a niche market
- Global market valued at \$2 billion (2023)
- 2024-2032: expected CAGR 15%

# Challenges in Tax Treatment

- Classification issues due to unique nature
- Risk of double taxation/non-taxation
- Treatment of income of Esports players under the double tax treaties?



# National law: Gambling? Sport?

- The challenge of classifying esports players for tax purposes
- States treat esports differently
- Elements of chance?
- Talent and skill needed?
- Skill-based games like Dota 2, League of Legends, and Fortnite depend primarily on player talent

# Definition: Entertainers or Sportspersons?

Article 3.2 OECD MC:

*"As regards the application of the Convention at any time by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of that State for the purposes of the taxes to which the Convention applies, any meaning under the applicable tax laws of that State prevailing over a meaning given to the term under other laws of that State."*

# Definition: Entertainers or Sportspersons?

OECD Commentary:

- Not just traditional sports: activities with “Entertaining character”

# Definition: Entertainers or Sportspersons?

“Prepare like an athlete”

- Competition element
- Public performance element
- Distinction entertainers/sportspersons for tax purposes

# Main Features of Article 17



Taxation rights source state



No minimum threshold for  
activity duration



Tax on income closely  
connected to performance



Place where the activity is  
performed is decisive

# Tax closely related to performance

OECD Commentary: *“....there are a number of cases where it may be difficult to determine whether a particular item of income is derived by a person as an entertainer or sportsperson from that person’s personal activities as such.”*

OECD: *“[When].... it is not reasonably considerable that this income would have been earned in the absence of such a performance”*

# Income streams

- Royalties of IP rights
- Team earnings
  - Rent a star companies: look through approach
- Direct earnings: material rewards
- Employment income
- Business income
  - Enterprise
  - Self employment

Multiple states of performing activities?

Preparation activities?

# Exemptions article 17

- Public funds exemption
- Limitation small income
- League clause excluding sportspersons employed by a group or a team



# Place of performance activity

## Where is the activity performed?

- Offline tournaments:
  - State where the tournament is held
- Online tournaments:
  - Player's physical location?
  - Tournament organizer's residence?
  - Video game publisher's residence as a 'virtual stadium'?



## Conclusion & Recommendations

- Divergent tax treatments for online vs offline esports players
- Outdated definition of source
- Harmonization among states recommended to avoid double taxation and non-taxation



# Questions & Answers

Feel free to ask any questions!

# Contact Information

**GRAHAM, SMITH & PARTNERS**  
International Tax Counsel

slotboom@grahamsmith.com