

Taxation of Non-European Sports/Entertainers in Europe

TTN Conference Milan 2024
27° SEPTEMBER 2024

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Introduction

- Where are sportspersons and entertainers taxed?
- Double tax treaties
- Deductions for Expenses?



Tax Treaties

- Business Profits – Article 7
- Royalties – Article 12
- Employees – Article 15
- Artistes and Athletes - Article 17



Article 17

- 1) Notwithstanding the provisions of Articles 14 and 15 of this Convention, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as an athlete, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.
- 2) Where income in respect of personal activities exercised by an entertainer or an athlete in his capacity as such accrues not to the entertainer or athlete himself but to another person, that income may, notwithstanding the provisions of Articles 7, 14 and 15 of this Convention, be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised



Article 17(2) - U2 Case

- Payments made in connection with U2 performances in Spain
- Held were part of fees paid for U2 performance and, therefore, subject to withholding tax
- Did not matter that payments were not received by band members



Withholding and Final Tax Liability

- No tax deduction (IRE, NL)
 - Special Regimes (UCL, Competitions)
- Relatively low withholding tax rates (DE)
- Obligation to file returns
- Credit in home country or exemption



Deductions for Costs

- Originally not recognised in treaties
- Relatively low withholding tax rates on gross income
- Some countries allow deductions during or after year
- ECJ Cases
 - Gerritse 2003
 - Scorpio 2006
- File tax returns and apply normal tax rates



Deduction of Expenses

Country	Tax rate	Deduct expenses	Tax return after year
European Union			
Austria	20%	Yes	Yes
Belgium	18%	Yes	Yes
Bulgaria	10%	Partly	Yes
Croatia	10%	Partly	Yes
Cyprus	No	-	-
Czech Republic	15%	Partly	Yes
Denmark	No	-	-
Estonia	10%	Yes	Yes
Finland	15%	Yes	Yes
France	15%	No	Yes
Germany	15,8%	Yes	Yes
Greece	20%	Partly	Yes
Hungary	No	-	-
Ireland	No	-	-
Italy	30%	No	No
Latvia	20%	Yes	Yes
Lithuania	15%	Yes	Yes
Luxembourg	10%	Partly	No
Malta	10%	No	No
Netherlands	No	-	-
Poland	20%	Partly	Yes
Portugal	25%	Yes	Yes
Romania	16%	Partly	No
Slovak Republic	19%	Yes	Yes
Slovenia	15%	Yes	Yes
Spain	19 / 24%	No	Yes
Sweden	15%	Partly	No
Other			
Norway	20%	Partly	No
Switzerland	10-25%	Partly	Yes
UK	20%	Yes	Yes
Australia	49%	Yes	Yes
USA	30%	Yes	Yes



Touring Options

- Split contract between performance and production
- Production fees can fall within Article 7
- Article 17 can apply if contracts with same person
- Separate Production Company



Independent Ownership and Management

- If owned by artist, then likely to fall within Article 17
- Loss of control
- Ability to provide services
- Additional admin costs vs tax benefit



Percentage Limits

- Promoters generally determine limit (FR)
- Based on what the local tax office will accept
- Need to support with invoices, contracts, etc.
- Commerciality



Other Sources of Income

- Merchandise at concerts = Linked to performance
- Performance Royalty
- Songwriter Royalty
- Image rights/Endorsements



Other Issues

- Social Security Charges (A1 certificate)
- VAT (Who is liable?)
- Import Duty (Carnet)
- Special regimes (Event exemptions)



Conclusions

- Different rules for different countries
- Beware of Article 17(2)
- Supporting evidence of costs if deducting
- Not just tax to consider
- Important to take advice



THANK YOU FOR LISTENING

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