Taxation of Non-European Sports/Entertainers in Europe

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Introduction

• Where are sportspersons and entertainers taxed?



• 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

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% Partly Yes France 15% No Yes France 15% No Yes Greece 20% Partly Yes Hungary No - - Ireland No - - Hungary No - - Ireland No - - Hungary No - - Italy 30% No No Latvia 20% Yes Yes			Deduct	Tax return	
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Australia 49% Yes Yes	Switzerland	10-25%	Partly	Yes	
12.12	UK	20%	Yes	Yes	
12.12					
USA 30% 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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