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## Special tax regimes for sportsmen

## Systemy opodatkowania sportowców

Paweł Szwajdler

Nicolaus Copernicus University in Toruń

E-mail: [szwajdli@onet.eu](mailto:szwajdli@onet.eu)

### Abstract

The main purpose of this work is to show diversity of tax regimes for sportsmen. The author focuses on tax regulations in Germany and in France. In this work is showed, that not only tax regimes, which are applicable to all sportsmen, are in force, but also regimes, which are applicable only to sportsmen who are non- residents.

Author of this article is going to answer , if it is necessary to treat sportsmen in other way than other taxpayers. In this work, the author analyses legal regulations and specialist literature.

**Key words: taxation of sportsmen, tax regimes for sportsmen, taxes.**

## Streszczenie

Głównym celem niniejszej pracy jest wskazanie na różnorodność systemów opodatkowania sportowców. Autor skupia się przede wszystkim na regulacjach obowiązujących we Francji oraz w Niemczech. W pracy zostało wskazane, że specyficzne systemy opodatkowania sportowców dzielą się na konstrukcje prawne dotyczące wszystkich sportowców oraz na rozwiązania jurydyczne mające zastosowanie tylko do nierezydentów.

Autor odpowiada w niniejszym artykule na pytanie, czy istnieją powody, dla których sportowcy powinny być opodatkowani w sposób odmienny, niż pozostali podatnicy. W pracy zastosowana została metoda polegająca na analizie tekstów prawnych oraz poglądów doktryny.

**Słowa kluczowe: opodatkowanie sportowców, systemy opodatkowania sportowców, podatki.**

Lots of different legal systems exist in the world. This observation also applies to tax regimes for sportsmen. The author of this work would like to focus on two kinds of above-mentioned regimes. First of them was implemented among others in France, Germany and United Kingdom and second one *inter alia* in USA, Canada, Japan and Australia.<sup>1</sup> In first of these regimes, sportsmen are treated in different way than other taxpayers.<sup>2</sup> For example, separate tax regime in France is both for sportsmen, who are French residents<sup>3</sup> and for sportsmen, who are not<sup>4</sup>. Different legal regulations are in force in Germany, where

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<sup>1</sup> D. Sandler, *The taxation of international Entertainers and Athletes*, Kluwer Law International 1995 p. 331-332

<sup>2</sup> D. Sandler, *The taxation of international Entertainers and Athletes*, Kluwer Law International 1995, p. 332

<sup>3</sup> Art. 182 c Code général des impôts

<http://www.legifrance.gouv.fr/affichCodeArticle.do?idArticle=LEGIARTI000006303116&cidTexte=LEGITEX T000006069577&categorieLien=id&dateTexte=20090409>

<sup>4</sup> <http://www.etudes-fiscales-internationales.com/archive/2015/02/18/france-l-impot-sur-le-revenu-pour-les-sportifs-non-residents-ce-17-02-1-24.html>

differences are only related to sportsmen, who are not German residents.<sup>5</sup> In second group of countries differences between sportsmen and other taxpayers do not exist. The main aim of the author of this work is to describe special tax regimes for sportsmen and to show ,what reasons of their existing are. It is important to notice that suitability of tax regime has influence on choosing of place of sport activity by sportsmen.<sup>6</sup>

It seems to be crucial to show that situation of sportsmen is specific. Sportspersons are taxpayers, who are still on the move, because they take part in tournaments and championships in different countries.<sup>7</sup> It is easy to find out that sportsmen can be tax liable for income, which was received in a few countries. Therefore special tax regime for sportsmen who are non- residents is very essential. Before describing situation of non- residents sportsmen in France, it is appropriate to highlight that article 182 c of French *Code général des impôts* states that salaries and remuneration of all sportsmen can be taxed at a rate of 15 %.<sup>8</sup> It is very interesting, because article 182 c is *lex specialis* regulation, which can exclude application of article 182 a of *Code général des impôts* on demand of taxpayer<sup>9</sup>. In last mentioned article was regulated progressive rate of income tax, which can amount 0%, 12% or 20%.<sup>10</sup>

It is easy to find out that special tax regime is appropriate for rich and successful sportsmen whose annual incomes are enough high to save money, because rate of 15% is related to whole income and is not progressive. In opinion of this work's author *ratio legis* of this regulation is the fact that French legislator wants to limit tax emigration of sportsmen. But tax emigration seems to still exist, because of favourable tax regime for sportsmen, who are non- residents, to whom is applicable article 164 B 5 g of *Code général des impôts*.<sup>11</sup>

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<sup>5</sup> <http://www.vibss.de/finanzen/steuern/lohnsteuer/besteuerung-auslaendischer-kuenstler-und-sportler/>

<sup>6</sup> F. Romero, Guide on sportsperson taxation in certain relevant jurisdictions, Thomson Aranzadi, 2008 p. 9

<sup>7</sup> X. Oberson, International Taxation of Artists and Sportsmen, Schulthess Edition Romandes 2009 str. 2

<sup>8</sup> Art. 182 c Code général des impôts

<http://www.legifrance.gouv.fr/affichCodeArticle.do?idArticle=LEGIARTI000006303116&cidTexte=LEGITEXT000006069577&categorieLien=id&dateTexte=20090409>

<sup>9</sup> Art. 182 a Code général des impôts

<http://www.legifrance.gouv.fr/affichCodeArticle.do?cidTexte=LEGITEXT000006069577&idArticle=LEGIARTI000006303105&dateTexte=&categorieLien=cid>

<sup>10</sup> Art. 182 a Code général des impôts

<http://www.legifrance.gouv.fr/affichCodeArticle.do?cidTexte=LEGITEXT000006069577&idArticle=LEGIARTI000006303105&dateTexte=&categorieLien=cid>

<sup>11</sup> X. Oberson, International Taxation of Artists and Sportsmen, Schulthess Edition Romandes 2009 p. 67

Above- mentioned regulation states that salaries and remunerations, related to French sport activity of foreign sportsmen, are incomes, which source is in France.<sup>12</sup> Therefore incomes of foreign sportsmen, which are related to their French sports activity can be taxed at a rate of 15%.<sup>13</sup> But rest of their incomes can be taxed in tax heavens. Obviously it is necessary to check tax treaties so as to ensure, that French regulations are applicable to specific situations.

The author of this work thinks that it is also important to show German regulations related to taxation of sportspersons. In Germany special regime for sportsmen is related to limited tax liability.<sup>14</sup> Limited tax liability in Germany is applicable to persons who are not German residents.<sup>15</sup> § 50a of German Income Tax Act connects limited tax liability among others with sports events, which take place in Germany(„ *im Inland*“).<sup>16</sup> So German special tax regime is applicable to sportsmen who are non- residents. It is important to notice that thanks to German domestic law, double taxation of sportsmen’ s income is possible.<sup>17</sup> This is other solution than French one. It is necessary to notice, that French system treated sportsmen in other way than other taxpayers. It is very suitable for sportsmen, because it supports them thanks to uniform tax rate. German tax regime for sportsmen is profitable for taxing authorities. In some countries do not exist special tax regimes for sportsmen. The author of this work thinks that it is also good solution, because it is not necessary to treat sportsmen in other way than other taxpayers, because they are not more important for society than other professionals.

The main aim of this work is to answer, if above- described legal regulations are reasonable. It is important to notice, what purposes of legislator can be. The author of this work thinks that legislator is going especially to influence on increasing tax revenue, to promote some values, attitudes, behaviours or to limit civil tensions. It is easy to find out that

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<sup>12</sup> Art. 164 b Code général des impôts  
<http://www.legifrance.gouv.fr/affichCodeArticle.do?cidTexte=LEGITEXT000006069577&idArticle=LEGIARTI000017923897&dateTexte=>

<sup>13</sup> Art. 164 b and 182 a Code général des impôts

<sup>14</sup> <http://www.dextra-fs.de/kunst-und-medien-nachrichtenleser/items/besteuerung-auslaendischer-kuenstler-und-sportler-in-deutschland-42.html>

<sup>15</sup> <http://www.steuertipps.de/lexikon/b/beschaenkte-steuerpflicht>

<sup>16</sup> § 50a Deutsche Einkommensteuergesetz,  
[http://www.google.pl/url?sa=t&rct=j&q=&esrc=s&frm=1&source=web&cd=1&cad=rja&uact=8&ved=0CCAQFjAAahUKEwiwx8KS\\_KHHAhXLjCwKHURBqk&url=http%3A%2F%2Fwww.gesetze-im-internet.de%2Fbundesrecht%2Ffestg%2Fgesamt.pdf&ei=IWjKVfCoFMuZsgHEvJnICg&usg=AFQjCNFgHZv4RM77ZXAJSUON3xcBICYEDQ](http://www.google.pl/url?sa=t&rct=j&q=&esrc=s&frm=1&source=web&cd=1&cad=rja&uact=8&ved=0CCAQFjAAahUKEwiwx8KS_KHHAhXLjCwKHURBqk&url=http%3A%2F%2Fwww.gesetze-im-internet.de%2Fbundesrecht%2Ffestg%2Fgesamt.pdf&ei=IWjKVfCoFMuZsgHEvJnICg&usg=AFQjCNFgHZv4RM77ZXAJSUON3xcBICYEDQ)

<sup>17</sup> W. Loukota, M. Stefaner(Hrsg), Taxation of Artistes and Sportsmen in International Tax Law, Linde Verlag 2007 , p. 293

taxation of non- residents who take place in tournaments in state of source is related probably only to tax revenue and reasonable legislator' s aims, in such case, are not related to any values or attitudes. In relation to sportsmen who are residents of state of source, legislator can impact on developing of professional sport and successes of national sportsmen, but can also limit „tax emigration” thanks to appropriate tax system. Lack of special tax systems is good solution in countries, in which free market systems exist and legislators are not interested in having influence on all spheres of life. One of example of such country is the US<sup>18</sup>-fatherland of free market. But it is necessary to notice, that US government was planning to create separate tax regime for sportspersons.<sup>19</sup>

## Conclusions

Summing up, the author of this work would like to emphasize that two kinds of tax regimes for sportsmen exist. First of them is related to special tax regulation for all sportsmen and second one is applicable only to sportsmen who are non-residents. First of above-mentioned regime stems from opinion that sportsmen loom large in the society. Second of them is related only to tax profits of State of source. The author of this work thinks that the main reason of existing special tax regimes for sportsmen, who are non- residents, is increasing tax revenues. In relation to taxation of sportsmen who are residents, by contrast, the most important reason of existing special tax regimes is the fact that there are not only free market states, but also welfare states, in the world. In first of above- mentioned states legislators are not interested in overregulating of some spheres of life and they do not discriminate any groups, if it is not necessary. It is obvious that in these countries special regulations related to taxation of sportsmen are not in force. In welfare states legislators are going to control majority of spheres of life, including separate taxation of sportsmen.

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<sup>18</sup> D. Sandler, The taxation of international Entertainers and Athletes, Kluwer Law International 1995 p. 331

<sup>19</sup> A. Appleby, Leveling the playing field: A separate tax regime for International Athletes, Brooklyn Journal of International Law vol. 36/605, 2011, p. 615

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