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# **TAXATION OF SPORTSPERSONS IN LIECHTENSTEIN**

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**Few people are likely to be aware that Liechtenstein is by far the most successful nation worldwide in the unofficial statistics of «Olympic medals per capita». For decades, Liechtenstein has also had a strong economic connection to sport and is a good country for sportspersons to reside in – not least of all thanks to its quality of life, geographical location, and internationally compliant and attractive tax law.**

Sportspersons residing in Liechtenstein are subject to unlimited tax liability and thus to the world income principle. Under that principle, income from self-employment and paid employment generated worldwide as well as income from intangible assets such as licence fees are subject to Liechtenstein property and income tax. Taxable net income does not include income from permanent establishments abroad and other exemptions. With a maximum marginal tax rate of about 20%, the income taxation of sportspersons is comparatively attractive.

For internationally successful top sportspersons, taxation based on expenditure can be an attractive alternative to property and income taxation. A sportsperson's company domiciled in Liechtenstein meeting national and international requirements can be a good further alternative for top sportspersons. The taxable income of such companies is in principle subject to a corporate earnings tax of 12.5%.

Unlike other countries, Liechtenstein has not defined its practice concerning the international taxation of top sportspersons such as Alpine skiers, cross-country skiers, footballers, golfers, showjumpers, swimmers or tennis players. The general question therefore arises as to how the income of internationally active sportspersons residing in Liechtenstein is to be taxed.

Also unlike other countries, Liechtenstein does not levy taxes on the income of foreign sportspersons performing at sporting events in Liechtenstein. This must be distinguished from sportsperson's companies or asset structures for sportspersons,

which may give rise to limited or unlimited tax liability, depending on the constellation.

The remarks in this article are equally applicable to sportspersons and artists.

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## 1. SELF-EMPLOYMENT VERSUS PAID EMPLOYMENT

In many cases, sportspersons are in a paid employment relationship, especially in the case of team sports such as football. These sportspersons are in principle taxed like other paid employees in Liechtenstein. In other cases, sportspersons residing in Liechtenstein may meet the criteria for self-employment. Self-employment must be distinguished from other activities such as paid employment and hobbies, and it exhibits characteristics such as the following:

- investment of work and capital
- assumption of own risk
- freely chosen form of organisation
- intention to make a profit, or
- scheduled and permanent externally visible participation in sporting events (market presence)

It is of subordinate importance whether a professional sportsperson engages in self-employment as a primary or secondary occupation.

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## 2. TYPES OF INCOME OF SPORTSPERSONS

All income of a sportsperson, even if the sports activities qualify as a hobby, is in principle taxable in Liechtenstein. The types of income of an employed sportsperson typically include the salary, while the types of income of a self-employed sportsperson also include:

- income from media appearances
- contributions from the Liechtenstein Olympic Committee (LOC)
- classification bonuses
- licence fees
- merchandising
- payments in kind for equipment, vehicles, mobile phones, accommodation or meals
- prize money
- reimbursement of expenses for participation in sporting events, training or travel expenses
- donations, patronage contributions or bequests
- sponsorship income
- participation money
- transfer fees
- advertising income

If, in this context, a hobby sportsperson unexpectedly earns prize money or a victory bonus, this is subject to the income tax in Liechtenstein as other income and consequently a relevant component of social security contributions such as Old Age, Survivors and Disability Insurance/Family Compensation Fund. The expenses associated with a hobby are equivalent to living expenses for tax purposes and are therefore not deductible from taxable income.

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### 3. COMMERCIALLY JUSTIFIED EXPENSES

In most cases, a top sportsperson started out as a recreational sportsperson who then developed into a competitive sportsperson and ultimately a top sportsperson. If it appears that the sporting activity will develop into a profitable source of income, it may make sense to establish self-employment as early as possible. This makes it possible to deduct

commercially justified expenses for tax purposes. If the activities generate losses at first, these losses may be carried forward and offset against later profits.

In individual cases, it should be clarified in a timely manner whether the Fiscal Authority considers the conditions for self-employment to be met. It is advisable, in any event, to systematically collect the financial movements resulting from the sporting activity, such as in the form of records, bank documents, credit card statements, receipts and invoices. Commercially justified expenses of self-employed sportspersons include:

- work room or office
- accounting and auditing
- preventive health care
- personnel, such as counsellors and trainers
- rehabilitation
- legal and tax advice
- travel expenses
- social security
- sports apparel
- training camps
- training and sports equipment
- lodgings
- meals including sports and supplemental nutrition
- insurance
- publicity

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### 4. GIFTS AND BEQUESTS

Gifts and bequests to sportspersons residing in Liechtenstein are not taxable. The tax consequences abroad must be examined separately if the gift or bequest is from a person residing abroad.

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## 5. AVOIDANCE OF DOUBLE TAXATION

The income generated abroad is often also taxed where sportspersons are active, for example through participation in a training camp or sporting event. The sportsperson can avoid double taxation of the same income in Liechtenstein and abroad by offsetting taxes already paid abroad against the income tax in Liechtenstein as allowed under double taxation agreements (DTAs) to which Liechtenstein is a party. Alternatively, Liechtenstein may exempt the foreign income of the sportsperson from the income tax, such as in relation to Switzerland, subject to progressive tax brackets.

Liechtenstein maintains DTA relations with a constantly growing number of countries. The DTAs contain a provision essentially identical to Article 17 of the OECD Model Tax Convention (OECD MTC; sportspersons' clause). According to those provisions, income received by a sportsperson residing in Liechtenstein from activity personally carried out in the other contracting party may be taxed in the other contracting party. Put simply, the sportspersons' clause states that the right to taxation of certain income is allocated to the host country, and that Liechtenstein's right is limited accordingly.

The sportspersons' clause covers income from both self-employment and paid employment. The precondition is that the income is directly and immediately related to the sporting events themselves, i.e. it refers to a specific event. If the income is not directly and immediately related to the public performance or event, the other provisions of the DTA on self-employment and corporate earnings (Article 7 OECD MTC), paid employment (Article 15 OECD MTC), or licence fees (Article 12 OECD MTC) apply. It must therefore always be examined for what purpose and from which performance the sportsperson receives the income. The second paragraph of Article 17 OECD MTC also covers income from personal

activities exercised by a sportsperson acting as such that accrues not to the sportsperson but to another person. The other person may, for instance, be a sportsperson's company which collects all income relating to the activity of the sportsperson in question. When sportsperson's companies are used, sportspersons make their labour and the rights to their person available to the company. The sportspersons in turn receive a salary for their work and, depending on the constellation, an annual bonus or dividends.

In the following, different types of sportspersons' income which regularly fall within the scope of Article 17 OECD MTC are examined.

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### 5.1 FIXED SALARY

For many sportspersons, a fixed salary is the main source of income. Depending on the constellation, the fixed salary is owed irrespective of sporting performance, without being directly and immediately related to a sporting activity and thus to a specific event. Potentially, the right of taxation may then be allocated to Liechtenstein as the country of residence.

Otherwise, foreign tax liability may for example begin already on the first day of the sportsperson's sporting event. The host country of the event therefore endeavours to tax the sportsperson's fixed salary in proportion to the sportsperson's total annual number of performance days.

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### 5.2 FIXED COMPENSATION

Frequently, fixed compensation from sponsors and equipment suppliers is paid, irrespective of the achievement in a specific event, which is why such

income cannot be linked directly with individual sporting performances. Income of this kind rather depends on the existing popularity of the sportsperson and may in principle be regarded as compensation for sportspersons making their personal reputation or celebrity available in order to achieve an advertising effect. If a sportsperson does not have a permanent establishment in the countries of performance and a DTA is available, the right of taxation as a general rule is allocated to Liechtenstein as the country of residence.

### 5.3 CLASSIFICATION BONUSES, PRIZE MONEY, AND PARTICIPATION MONEY

Classification bonuses or ranking bonuses are performance-related compensation paid for top positions in individual sporting events. The payment of classification bonuses, prize money, and participation money by sports organisers, equipment suppliers, or sponsors is in many cases directly related to the sporting activity and therefore falls under Article 17 OECD MTC. Accordingly, this type of compensation depends directly on the sporting performance and is attributed to the host country of the sporting event in question.

Classification bonuses for top classifications in overall rankings or world rankings are treated differently. This income cannot be attributed directly to a current sporting event or specific individual venues of sporting events. For this reason, Liechtenstein as the country of residence of the sportsperson generally has the full right of taxation.

Participation money also does not fall within the scope of Article 17 OECD MTC. Such remuneration may alternatively depend on the existing popularity of the sportsperson and may be regarded as compensation for sportspersons making their personal

reputation or fame available in order to achieve an advertising effect.

### 5.4 LICENCE FEES

As a rule, income from the exploitation of intangible assets, such as in the form of licence fees, is not directly related to a particular sporting event. For this reason, the corresponding income is taxable in Liechtenstein as the sportsperson's country of residence in accordance with Article 12 OECD MTC.

If, on the other hand, there is a close link with the sporting performance, for example through a contractually defined remuneration to a golfer for wearing a sponsor logo at a certain individual venue of the sporting event, such licence fees may alternatively fall under Article 17 OECD MTC and thus be taxed in the host country of the sporting event.

The administration and exploitation of intangible assets in Liechtenstein and the collection of licence fees may prove to be attractive from a tax perspective even in the absence of a DTA. The background to this is that Liechtenstein credits the withholding taxes levied abroad against its income tax, provided that there is a reciprocal right declared in writing between the host country and Liechtenstein.

### 5.5 MERCHANDISING

Income from merchandising is covered by Article 17 OECD MTC, provided that the income is directly and immediately connected with a sporting event itself and furthermore does not qualify as licence fees. Otherwise, the income falls under Article 7 or 15 OECD MTC. Whether and to what extent income from merchandising is taxed in Liechtenstein must therefore be clarified in each individual case.

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## 6. TAXATION BASED ON EXPENDITURE

Similar to other countries, Liechtenstein also has the option of taxing sportspersons on a lump-sum basis in accordance with expenditure. The prerequisites for taxation based on expenditure are:

- the sportsperson takes up residence or habitual abode in Liechtenstein for the first time or after an absence from the country of at least ten years
- does not have Liechtenstein nationality
- is not gainfully employed in Liechtenstein, and
- lives off the income from the sportsperson's assets or other funds received from abroad

Taxation based on expenditure is collected in lieu of property tax and income tax, although real estate located in Liechtenstein is subject to property tax.

Not least of all because of the comparatively high level of tax assessment, taxation based on expenditure in Liechtenstein has enjoyed a high level of popular support for decades. Experience has shown that the likelihood is high of obtaining a residence permit in Liechtenstein in combination with a taxation agreement pre-approved by the Fiscal Authority.

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## 7. SOCIAL SECURITY AND INSURANCE

Contributions to Old Age, Survivors and Disability Insurance/Family Compensation Fund (AHV-IV-FAK) are owed on the net income of sportspersons. Persons who are not gainfully employed in Liechtenstein or for other reasons pay only small contributions to AHV-IV-FAK should ensure that they pay at least the annual minimum contribution of

CHF 353.65. Otherwise, the sportsperson risks serious pension gaps in old age. Gaps in contributions can still be filled retroactively for the past five years. Moreover, self-employed sportspersons are also not obliged to join a pension scheme. However, there is the option of voluntary pension coverage. Contributions to the AHV-IV-FAK and pension schemes are tax-deductible for self-employed sportspersons.

It goes without saying that the legally required social security contributions including to AHV-IV-FAK and pension schemes as well as additional insurance coverage for sportspersons according to their needs must be assessed in detail and should be understood as an essential component of professional career planning.

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## 8. VALUE ADDED TAX

Self-employed sportspersons are also subject to value added tax, provided that they generate taxable turnover of at least CHF 100,000 per year. If not, sportspersons may nonetheless voluntarily register with the VAT authority. One of the advantages of voluntary registration is that VAT paid in the form of input tax is refundable, so that – depending on the constellation – the VAT burden can be reduced. But VAT registration also entails that taxable turnover must be reported at regular intervals, including:

- reimbursement of expenses for participation in sporting events, training or travel expenses
- classification bonuses
- licence fees
- prize money (cash and in kind)
- sponsorship income
- participation money (cash and in kind)
- sale of fan articles (merchandising)
- advertising income

Turnover subject to VAT is taxed at a rate of 7.7%. For sportspersons residing in Liechtenstein, the following are in principle exempt from VAT:

- contributions from the Liechtenstein Olympic Committee (LOC)
- classification bonuses earned outside Liechtenstein and Switzerland
- licence fees for the granting of name and trademark rights to a company domiciled outside Liechtenstein and Switzerland
- prize money earned outside Liechtenstein and Switzerland
- donations, patronage contributions or bequests without consideration
- sponsorship income paid by a sponsor outside Liechtenstein and Switzerland
- participation money earned outside Liechtenstein and Switzerland

The Swiss industry-specific VAT Info 24, which also applies to Liechtenstein, specifically covers VAT questions relating to sport. Donations, patronage contributions or bequests, for instance, are considered voluntary contributions by third parties, without any consideration being expected for the purposes of VAT. These voluntary contributions are not counted as payment for services and do not result in a reduction of the input tax deduction.

A donation also does not constitute a taxable sponsorship, provided that the donor is mentioned once or several times in a publication in neutral form (i.e. without an advertising slogan), even if the donor's logo is used. A mere mention of the donor's entrepreneurial activity also does not give rise to a taxable performance. A link to the donor's website, on the other hand, results directly in a taxable sponsorship or advertising performance.

Where contributions of the Liechtenstein Olympic Committee (LOC) are paid exclusively for financial support of the physical and mental preparation of a sportsperson, they are considered a donation and do not result in a reduction of the input tax deduction for taxable sportspersons.

Questions relating to VAT liability and administration quickly become highly complex, especially in the case of internationally successful sportspersons with different types of income. Moreover, shortcomings in the administration of VAT may give rise to substantial retroactive claims by tax administrations. In such cases, it is worthwhile to consult a tax expert at an early stage.

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## 9. CONCLUSION

The comprehensive career planning of sportspersons also includes the professional handling of national and international tax issues. Especially in the case of internationally successful top sportspersons, the early choice of the country of residence can lead to significant differences in long-term value creation.

It is well known that the requirements for obtaining a residence permit in Liechtenstein are relatively high. In the case of internationally successful top sportspersons, obtaining a residence permit is likely to be possible depending on the constellation. In all other cases, obtaining a residence permit requires a certain amount of planning, including appropriate lead time.

In conclusion, Liechtenstein is an eminently suitable country of residence for internationally successful top sportspersons. Dr. Marco Felder\* will be happy to answer any questions you may have regarding the taxation of sportspersons, sportsperson's companies or asset structures for sportspersons.

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\* Dr. Marco Felder has experience as a sportsperson with support from the Liechtenstein Olympic Committee (LOC) and participated in the 1994 Olympic Winter Games in Lillehammer. In addition to his professional activities, he is the member of the LOC Executive Board responsible for finance.

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### SOURCES

This blog post is based on the following sources, including:

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- Rotter Dimitri, Wadsack Lukas, Steuerplanungsmöglichkeiten für Spitzensportler bzw. angehende Spitzensportler

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