



Sports Law France : Incomes of athletes taxable in France

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In 2011, the French Administrative Supreme Court judged that a German professional athlete participating in a tournament held in France was linked to the alleged organizer with a labor contract. Therefore, earnings are taxable in France under the category of wages and salaries.

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A German tennis player was the subject of a tax adjustment by the French tax administration for revenues collected on the occasion of his participation in several French tournaments had been taxed in France.

Initially, the Administrative Court of Nice had rejected his request for discharge of taxes and penalties.

The Administrative Court of Appeal in Marseille has also rejected the request of the athlete and allowed the application for substitution of legal basis made by the tax authorities to tax the gains of the players in the category of wages and salaries.

In its decision of 22 June 2011, the "Conseil d'Etat" (Administrative Supreme Court) rejected the appeal brought in by the tennis player.

I) Amounts paid directly to the athlete

The "Conseil d'Etat", in that case, based its decision on the provisions of former Article L.762-1 of the Labour Code (now L.7121-3).

This text states that "Every contract by which a person or entity to ensure, for remuneration, the assistance of an entertainer for its production, is presumed to be a contract of employment", except that the activity in question requires registration of the artist in the Register of Commerce and Companies.

For the "Conseil d'Etat", "these provisions, given the generality of their terms, which do not define exhaustively performing artists and do not impose any particular cultural aspect to the activity of these are applicable to players engaged in professional tennis tournaments such as those that the French Tennis Federation organizes. "

In addition, "nothing in the tax code does not preclude the gains earned by those players are

classified for the assessment of income tax in the category of wages and salaries".

II) Payments to a third party

The gains for the tournament of Roland Garros and Paris-Bercy had been paid to an intermediary (Dutch company), and not directly to the athlete.

For the "Conseil d'Etat", the presumption of employment contract of Article L.762-1 of the Labour Code is independent of the existence of a labour contract between the organizer and the performing artist, and exists even if that compensation is not paid directly to him.

In this case, the Dutch company has acted as an agent of the player, but it was clear that the payments were for the athlete. Indeed, the "Conseil d'Etat" believes that "where a taxpayer has entrusted to a third party to collect revenue from professional fees paid to the third party are deemed to be immediately available to the taxpayer, regardless of the date and terms of their actual payment."

III) What are the consequences?

- All athletes participating in sporting events in France have to be considered related to the organizer by a contract (with all the tax and social consequences)?
- Will Civil Courts confirm this ?

Maître Christophe BERTRAND and Thierry BARDAUD

Cabinet Bertrand & Associé

[Avocats en droit du sport à Paris](#)

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