UK Tax Breaks for the 2013 UEFA Champions League Final

This article discusses tax breaks for the 2013 UEFA Champions League final, which will be held at Wembley Stadium, in particular the exceptional tax treatment granted by the United Kingdom in respect to clubs and team officials. Special legislation was introduced in the Finance Act 2012 to provide an exemption from UK taxation for non-resident football players and team officials of overseas football teams involved in the 2013 Champions League final in respect of income related to the final.

1. The Champions League

The UEFA Champions League, originally known as the European Champion Clubs’ Cup or European Cup, is an annual continental club football competition that has been organized since 1955 by the Union of European Football Associations (UEFA) for the top football clubs in Europe. It is the most prestigious club competition in regard to European football and one of the most important tournaments in the world. Indeed, the final of the 2011 tournament was the most-watched annual sporting event in the world that year, drawing 178.7 million television viewers.

The UEFA Champions League comprises three qualifying rounds, a play-off round, a group stage and four knockout rounds, in which clubs play two matches against each other on a home-and-away basis. The final is decided by a single match, which, following a decision by the UEFA Executive Committee in June 2011, will be played this season at Wembley Stadium in London (United Kingdom) on 25 May 2013. Since the match will coincide with the 150th anniversary of the English Football Association (FA), UEFA decided to award the 2013 final to Wembley as a way of marking the landmark year for the organization. This is the seventh time that the final has returned to the London venue. It will also be the first time one stadium has staged the Champions League final twice in three years. What is interesting, however, is that the background story has an important tax twist to it.

In the elimination phase of the Champions League, every club keeps its own box office earnings from home matches and does not pay anything to the visiting foreign clubs. Based on the principle of mutuality, no taxable foreign performance income from home and away matches is considered to have been earned and there is no risk of double taxation. However, the box office earnings from the Champions League final, played in one match in a country chosen by UEFA, are shared by the two clubs and UEFA, which means that the host country of the final can levy a withholding tax on non-resident finalists.

2. General UK Tax Treatment of Non-Residents

Under UK domestic law, tax is imposed on the income of non-resident sportspersons if related to a UK performance. Non-UK resident sportspersons who perform in a sporting event in the United Kingdom are generally liable to UK income tax on any payment for the performance itself, such as appearance money, prize money and other income directly earned from the performance. Visiting overseas sport stars are also taxed on payments for other activities related to the performance, for example, interviews and television appearances, as well as on a proportionate share of worldwide sponsorship or endorsement income, which is deemed to be earned during their time in the United Kingdom. Persons making any such payments to non-resident sportspersons are obliged to withhold UK income tax from the payments. For 2013, the progressive rates are 20%, 40% and 45% (on income over GBP 150,000). While the issue of appearance or prize money has never really been in dispute, the allocation of a proportion of sponsorship and other commercial income has always been an issue, i.e. the calculation of how much, if any, relates to time spent in the United Kingdom. This is complicated by the fact that the majority of these deals are concluded overseas.

A House of Lords decision in 2006, in a landmark case between Britain’s tax authority and US tennis star Andre Agassi, gave HM Revenue & Customs (HMRC) the right to levy tax on a proportion of Agassi’s commercial income regardless of where it had arisen. Agassi was ordered to pay tax on a portion of the money paid to him by both Nike and Head in connection with the endorsement of their products at Wimbledon and other events in United Kingdom, even though the payments were made to the non-resident player by foreign companies with no trading presence in the United Kingdom. The House of Lords held that the majority of the income was earned in the United Kingdom and thus liable to UK income tax.

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that the fact that Nike and Head were foreign companies was irrelevant; they were still under a statutory obligation to deduct UK income tax from the payments to Andre Agassi. Moreover, under UK law, payments to a foreign company controlled by a non-resident sportsperson are treated as payments to the sportsperson himself, since it would otherwise be relatively straightforward to circumvent the tax rules. Since the Agassi case, the issue has been how much of the worldwide sponsorship income should be taxable. Initially, the proportion was calculated pro rata based on time spent in a particular year in the United Kingdom, but, in recent years, HMRC has sought to take a different approach that looks at the percentage of the key events that a sportsperson takes part in, which yields a higher return for HMRC. If 50 per cent of an athlete’s competitive appearances are in the United Kingdom, the UK tax authorities can claim tax on 50 per cent of the athlete’s global endorsement earnings. Tax treaties negotiated by the United Kingdom do not protect foreign sportspersons from UK taxation because they generally allow the state of performance to tax athletes at source. Where the treaty contains a provision equivalent to article 17(2) of the OECD Model (2010), applicable to intermediary companies and third parties receiving income in respect of athletic performances, the source tax is also levied on payments made indirectly to sportspersons via other persons.

3. Tax Exemption for the 2013 Champions League Final

What is different about the 2013 Champions League final is that the UK authorities circumvented their own tax rules by enacting special legislation to exempt non-resident members of foreign teams from any tax liabilities. This tax regime, which is intended to protect continental footballers’ money from the attention of HMRC, is contained in section 13, chapter 2, part 1 of the Finance Act 2012.

The personal scope of the special relief from UK income tax covers individuals who are both non-UK residents at the time of the final and employees or contractors of an overseas team that competes in the 2013 Champions League final. The terms used in this provision are defined in subsequent clauses of section 13. Pursuant to the definition contained in subsection 6, an overseas team means a football club that is not a member of the Football Association, the Scottish Football Association, the Football Association of Wales or the Irish Football Association. The terms “employee” and “employment” are to be read in accordance with section 4 of the Income Tax (Earnings and Pensions) Act 2003, which provides that “employment” includes, in particular (a) any employment under a contract of service, (b) any employment under a contract of apprenticeship, and (c) any employment in the service of the Crown. “Employed” and “employee” have corresponding meanings. A “contractor”, in relation to an overseas team, means an individual who is not an employee of the team but who performs services for the team (a) under the terms of a contract with the team, or (b) under the terms of a contract, or that individual’s employment, with a company that is a member of the same group of companies as the team (within the meaning of section 152 of the Corporation Tax Act 2010, which states that two companies are members of the same group of companies if (a) one is the 75% subsidiary of the other, or (b) both are 75% subsidiaries of a third company). Under these provisions, income tax liability will arise in respect of any income from the 2013 Champions League final that arises in the hands of players and officials of football teams participating in the championships who are not resident in the United Kingdom. Income earned by non-UK resident players and officials of a UK team or by players and officials of an overseas team who are resident in the United Kingdom will be liable to UK income tax. Ironically, should a UK resident team and/or UK resident player be involved in the final, they will not benefit from the exemption. As a result, UK footballers of a UK club will actually be worse off if they get to the final than their foreign colleagues. Such an approach is based on the fact that the United Kingdom would have the right to tax its resident players regardless of where the event takes place. Giving up taxing rights with respect to non-residents makes participation in the event more attractive to those caught by UK taxation based on territoriality.

Section 13(2) of the Finance Act 2012 specifies that the exemption applies to income related to duties or services performed by the person in the United Kingdom in connection with the 2013 Champions League final. The term “income” is defined as meaning employment income or profits of a trade, profession or vocation (including profits treated as arising under sections 13 or 14 of ITTOIA 2005 applicable to visiting performers). The exemption covers income from employment, self-employment, the provision of services, and any endorsement income of non-resident players and officials who work for, or are contracted to, visiting football clubs or their subsidiaries. The income must be related to “the 2013 Champions League final”, which means the final of the UEFA Champions League 2012/2013 competition held in England in 2013.

Paragraph 5 provides that withholding obligations under section 966 of the Income Tax Act 2007 (deduction of sums representing income tax) do not apply to any payment or transfer that gives rise to income benefiting from the exemption. Thus, to make the measure complete and comprehensive, the provisions on withholding tax do not apply to payments that constitute income that is covered by this tax relief. This means that although the United Kingdom normally levies a 20% withholding tax, subject to the right to deduct expenses at source and an optional income tax settlement at the end of the year, the teams participating in the Champions League final will receive their gross fees

6. **OECD Model Tax Convention on Income and on Capital** (22 July 2010), Models IBFD.
10. Id.
free from any deduction and pay taxes in their residence state.

The relief does not have any timeframe. However, it is restricted to income from contracts in force prior to the final by an anti-avoidance provision designed to prevent abusive tax planning opportunities. Pursuant to paragraph 3, the exemption does not apply to:

1. income that arises as a result of a contract entered into after the final, or of any amendment, after the final, of a contract entered into before the end of the final; or
2. income that is the subject of tax avoidance arrangements.

Paragraph 4 further explains that income is the subject of tax avoidance arrangements if:

a. arrangements have been made that, but for subsection (3)(b), would result in a person obtaining an exemption under paragraph 1 for the income; and
b. those arrangements, or other arrangements of which they form part, have as their main purpose, or one of their main purposes, the obtaining of that exemption.

Under these provisions, the income, to be exempt, must relate to contracts that are in force before the final takes place. Income that arises as a result of tax avoidance arrangements, i.e. arrangements that would result in benefiting from an exemption if it were not for the anti-abuse clause, and the main purpose of which, or one of the main purposes of which, is the obtaining of that exemption, is excluded from the exemption.

Interestingly, there are no legislative measures introducing an exemption for UEFA, which raises doubts as to the taxation of income of this organization (for example, from the sale of tickets for the final or broadcasting rights). Under the general rules, UEFA would have to pay tax in the United Kingdom on the income it receives from such sales. As a non-UK resident taxpayer, it would only be taxable on its business profits attributable to a PE in the United Kingdom. The existence of a PE largely depends on the length of time the event holder is expected to be in the United Kingdom. However, given that UEFA will only be in the United Kingdom for a short period of time, it is unlikely to be regarded as having a PE in the United Kingdom.

Although it seems that, due to the short duration of the event, UEFA will not have a UK PE that would trigger tax liabilities, the lack of special legislation securing UEFA's tax situation could suggest the existence of a guarantee to reimburse the cost of the tax burden. The Football Association likely agreed to indemnify the organizer in respect of any tax liabilities arising in connection with the event. Indeed, it is usual for the event holder to include, as part of the conditions for the successful bidder, a clause that indemnifies the event holder from any tax liabilities that may arise from holding the event. The staging agreement for the 2013 Champions League final is not available for review but paragraphs 49(a) and (b) of the London Olympics contract contained detailed tax clauses pursuant to which the city and the local organizing committee agreed to:

[... ] bear all taxes, including direct and indirect taxes, whether they be withholding taxes, customs duties, value added taxes or any other indirect taxes, whether present or future, due in any jurisdiction on a payment to be made to or by the International Olympic Committee (IOC) or any third party owned or controlled by the IOC, with respect to the revenues generated in relation to the Games, including without limitation pursuant to any agreement with an Olympic sponsor, supplier, licensee, broadcaster or other commercial partner.

The contract required London to indemnify the IOC or such third party for any taxes that could be due on a payment to be made or received by the IOC or such third party, so that the IOC or such third party would be put in the same situation as if such taxes had not been due. The contract also contained a reimbursement mechanism with respect to taxes paid by the IOC or such third party.

In regard to the Champions League final held in London in 2013, given that there is no specific legislation regarding the tax treatment of UEFA, it is assumed that the FA was able to provide similar guarantees to UEFA and agreed to include any tax liabilities in the cost of hosting the event. The FA will receive a facility fee from UEFA for the use of Wembley Stadium and also a share of the ticket proceeds obtained by UEFA. This income will be subject to tax as part of the total income of the association. The teams participating in the final and UEFA commercial partners will not, however, be exempt.

Due to being a Member State of the European Union, the United Kingdom had no right to offer UEFA relief from value added tax. The list of exemptions from VAT is governed in detail by the VAT Directive (2006), and any unilateral derogation therefrom by Member States is not permitted. Since it was not possible to grant a tax exemption that was not already provided for under EU law for the supply of goods or services for the duration of the final, UEFA is required to pay VAT at the standard rate of 20% on tickets sold in the United Kingdom for the final, as well as account for tax on the sale or licensing of media and commercial rights. However, the lack of an exemption is not, in this instance, detrimental to the sports organization, because thanks to UEFA’s status as a taxpayer, it can deduct VAT on goods and services purchased in the United Kingdom. UEFA expenses in connection with the organization of the event are primarily in the form of a transfer of money (including prize money) to the clubs and football associations of the Champions League finalists, as well as the cost of preparing fan zones in the host city. UEFA also pays for the hotels for their staff, rental or leasing of sports facilities, such as the stadium and training pitches, and services related to the match. Most of these services are subject to VAT in the United Kingdom at the standard rate of 20%, although prize money is outside the scope of VAT. The difference in VAT from ticket sales made by UEFA at the rate of 20% and purchases of other goods and services bearing 20% VAT can eventually lead to a VAT refund for UEFA due to excess input VAT. Although media and commercial rights payments between UEFA

Swiss subsidiaries and their foreign commercial partners are not taxed in the United Kingdom. VAT is due on the sale of the rights to British broadcasters and on transactions with UK sponsors of the event.

4. International Aspects of the Champions League Tax Regime

The full scope of the benefits under the 2013 Champions League tax regime also depends on the method of eliminating double taxation under the tax treaty concluded by the United Kingdom with the residence country of the person covered by the special exemption. The United Kingdom has tax treaties with all of the countries represented in the tournament. As a rule, tax treaties contain provisions similar to article 7 of the OECD Model (2010) applicable to companies and self-employed individuals and article 15 for employees, alongside article 17 for sportsmen. Articles 7 and 15 allocate the primary taxing right to the residence country, disregarding taxation at source if, respectively, the taxpayer does not have a PE in the source country or is present there for less than 183 days during a tax year and receives income from a non-UK employer (and not from a UK PE of a non-UK employer). Due to the short duration of the final, most persons covered by the Champions League tax exemption and resident in treaty countries would escape taxation in the United Kingdom in any event. For example, employees of European organizations responsible for producing international television and radio transmissions from the final may already be free from UK taxation under the terms of applicable tax treaties. Similarly, tax treaties containing article 12, applicable to royalties, assign the exclusive taxing right to the country of residence, which in regard to UEFA is Switzerland. Under article 12 of the Switzerland-United Kingdom Income Tax Treaty (1977),¹² no withholding tax is levied in relation to the sums of money paid to UEFA in the form of royalties. The revenue collected by UEFA from TV rights and sponsoring, a portion of which is paid to the participating clubs based on their results and size of their home state, normally falls under article 12 of the OECD Model, which allocates the taxing right to the residence state.

Football players fall under article 17 of the OECD Model, which is applicable to international sportsmen. Article 17 is an exception to the general rules on taxation of business profits and employment income. Under this provision, the country of performance has the right to levy a withholding tax on the performance fees of non-resident sportsmen even if they are self-employed, their earnings are business income and they do not have a PE in the state of performance. Article 17 assigns the full taxing right with respect to income earned by sportsmen to the country of performance, regardless of the time spent there. Pursuant to article 17 of its tax treaties, the United Kingdom, as the host country of the 2013 Champions League final, has the right to collect tax on income connected with the competition earned by players resident in tax treaty countries. If it were not for the Champions League exemption, the United Kingdom would tax an appropriate portion of the employment and/or business income of the players, attributable to the performance in the final.

The United Kingdom may have unilaterally given up its taxing right with regard to Champions League-related income, but the residence countries of the taxpayers still have to take the relevant tax treaties into consideration. Depending on the provisions of the applicable treaty, the residence country might apply the tax credit or exemption method for the avoidance of double taxation. Since there is no withholding tax in the source country, the credit method would not influence the tax assessment in the country of residence. The taxpayer is taxed in full on his foreign income and no foreign tax is available to set off against the domestic tax.¹³ If the country of residence unilaterally offers a tax exemption to the taxpayers involved in the final, such persons will also be able to avoid taxation in their residence country. However, professional athletes generally are not granted such preferences in European countries. As a result, the players participating in the 2013 Champions League final will pay tax on income earned in the United Kingdom in their residence country, without the possibility to credit any source tax, as no such tax will be imposed in the United Kingdom. Most tax treaties concluded by the United Kingdom with other European countries apply the credit method.

Different tax implications follow from tax treaties that provide for the exemption method. Under this method, the residence country exempts the income earned in the country of performance from domestic tax. The exemption with progression allows the country of residence to take foreign income into consideration for the purpose of establishing the tax rate applicable to domestic income. Such a mechanism may be of relevance if the domestic law of the residence country applies a progressive tax rate and the taxpayer moves into a higher tax bracket when foreign income is added to domestic income. In such circumstances, the domestic income may be taxed at a higher rate while the foreign income will remain tax free. If the source country offers a tax exemption, the taxpayer will enjoy double non-taxation of the foreign income. The same effect arises if, under the treaty, exclusive taxing rights are given to the host country. In such circumstances, any income received in connection with the final will be tax free, as the treaty will prevent the residence country from taxing.

The international effect of the unilateral exemption offered by the United Kingdom is that non-resident football players and team officials will be liable to tax on income related to the UEFA Champions League final 2013 in the resident country. The national laws of the residence countries of the players generally impose tax on foreign income but such laws are subject to the application of the relevant tax treaties.

¹² Convention between the Government of the United Kingdom of Great Britain and Northern Ireland and the Swiss Confederation for the Avoidance of Double Taxation with Respect to Taxes on Income (8 Dec. 1977) (as amended through 1993), Treaties IBFD.

¹³ Tetek & Molenaar, supra n. 2, at p. 325.
Despite the fact that direct payments to players are not made by UEFA and clubs have no obligation to either forward or allocate any money received from UEFA to players, any premiums effectively received by individual sportsmen are caught by article 17. In the light of article 17(2) it is irrelevant that the revenues distributed to the clubs are not linked to the performance of the individual sportsman but to the collective performance of the team.14

5. The Rationale for the Tax Exemption
The UK Treasury briefly explained that the exemption was introduced to meet the expectation of UEFA that states hosting the Champions League finals would not collect a domestic tax on any non-resident players and team officials involved in the final match. Interestingly, UEFA awarded the 2013 Champions League final to Wembley without asking the UK government for a tax break for overseas clubs. Indeed, the European football governing body confirmed that it had not made the tax exemption a prerequisite to giving Wembley the match. "It was more important to first give the signal that we want to celebrate in an appropriate way the 150th anniversary of the Football Association", UEFA general secretary Gianni Infantino said. "We are confident that the same tax conditions will apply in 2013", he added, referring to the tax break for the 2011 Champions League final held in the United Kingdom.15

This statement clearly shows the power of UEFA over football-loving Britain and marks the country’s long-weighed decision to trade its taxes for the right to host the showpiece soccer event. The story dates back to 2008, when one of the reasons given by UEFA for London not being chosen to host the Champions League final in 2010 (subsequently held in Madrid), was unfavourable tax laws that required players to transfer a substantial part of their earnings to HMRC.16 By contrast, UEFA maintained that footballers should not be taxed in the host country as taxing them separately in every country in which they play matches would be both unfair and unnecessarily complicated. The sport organization’s policy is that players should, for reasons of fairness and simplicity, be taxed on all their earnings in their country of residence. The UK approach was incompatible with that of UEFA and, after the Agassi decision in 2006, the UK practice adopted with respect to sponsorship income of overseas players was even less consistent with UEFA expectations. In fact, the post-Agassi restrictive approach to the taxation of foreign athletes cost Wembley the opportunity to host the 2010 Champions League final. UEFA said the UK national football stadium would not be given the lucrative game unless the tax regime changed. At that time, the UK government was unable to provide assurances that players taking part in the final, if it were to be held in England, would not be taxed.

When the English Football Association bid to host the Champions League final in 2011, the decision as to who would host the 2011 venue was delayed to give the FA a chance to address UEFA’s concerns related to UEFA’s request that the participating players from non-UK teams be exempt from any tax liabilities arising from their presence in the United Kingdom for the period of the match. It soon became clear that the selection of the London venue depended on the ability of the FA to resolve the tax issues that contributed to its failed bid to secure the Champions League final for Wembley in 2010. In 2008, after the intervention of the Sports Minister, who proposed removing obstacles that reduced the chances of the United Kingdom in competitions to host major sporting events, the UK government fulfilled the promise made to UEFA in response to its demands regarding the legal framework for the Champions League final scheduled to take place at Wembley Stadium in 2011. Treasury officials wrote to the FA to confirm that, if Wembley won the right to host the final, visiting teams would not come under the scrutiny of the taxman. As soon as the government announced that foreign players involved in the match would be exempt from UK tax, Wembley Stadium became the front-runner to stage the Champions League final in 2011. After the right to host the event had been granted, special legislation was included in the UK tax system to exempt foreign players and officials of non-UK teams competing in the tournament from income tax related to the services or duties performed in the United Kingdom in connection with the final.17 Pursuant to the provisions of the Finance Act 2010, the exemption applied to employees or contractors of the overseas teams competing in the UEFA Champions League final in 2011 that were not resident in the United Kingdom during the final.18

The measure announced for the 2013 Champions League final mirrors the provisions put in place for the 2011 UEFA Champions League final at Wembley. Although the exemption for the 2011 final was a one-off, the United Kingdom clearly did not want to risk a repeat of the issue that forced the 2010 game to be moved to Spain. As a result, to ensure that Wembley would retain the right to host the 2013 final, the United Kingdom granted the same exemption.

6. Economic Impact and Value of the Exemption
Granting a tax exemption requires an assessment of the economic impact of the tax break, as well as an estimate of lost tax revenue as a result of the exemption. The Treasury explained that the microeconomic impact of the Champions League legislation on the London economy is associ-

ated with increased hotel room sales. Football Association profits, food and drink sales in the capital, etc. This measure is expected to have a negligible impact on business as the tax break only affects non-resident football players and team officials. The Treasury does not expect the exemption to have an impact on the Exchequer and cites a study regarding the 2011 final, which yielded an estimated GBP 45 million benefit for the London economy.\footnote{S. Chadwick, MasterCard study: UEFA Champions League Final, May 2011, available at http://newsroom.mastercard.com/press-releases/uefa-champions-league-final-will-be-the-richest-ever-european-football-giants-clash-at-wembley-stadium-says-mastercard-study/.} However, it should be emphasized that the amount of income that will escape UK taxation is significant. In 2011, the winner of the tournament received EUR 9 million. The consolation prize in the final was EUR 5.6 million. UEFA has announced, however, that European soccer clubs competing in the Champions League are set to get a 15% raise in prize money for the next three seasons. Increased demand and improved broadcasting and sponsorship deals for the tournament are supposed to see combined revenues for the Champions League and Europa League top EUR 1.5 billion for the 2012-15 cycle. As of 2012-13, UEFA awards EUR 2.1 million to each team in the play-off round. For reaching the group stage, UEFA awards a base fee of EUR 8.6 million. A win in the group is awarded EUR 1 million and a draw is worth EUR 500,000. In addition, UEFA pays teams reaching the first knockout round EUR 3.5 million, each quarter-finalist EUR 3.9 million, each semi-finalist EUR 4.9 million, runners-up EUR 6.5 million and winners EUR 10.5 million.\footnote{UEFA Champions League revenue distribution, 10 Aug. 2012, available at http://www.uefa.com/uefa/management/finance/news/newsid=1843591.html.} The 32 clubs featured in the 2012-13 UEFA Champions League group stage can anticipate a minimum of EUR 8.6 million and the team that goes on to win the trophy could collect EUR 37.4 million, not including the market pool share (approximately 75% of the total revenue from media rights and commercial contracts concluded by UEFA), which is distributed according to the proportional value of each television market represented by the clubs taking part in the UEFA Champions League. While there is no official estimate of the lost tax revenue, it is bound to cost the UK several million pounds.

In discussing other aspects of the impact of the Champions League tax break, HMRC emphasized that the fact that exempted individuals will not need to fill out tax returns for this income will reduce the administrative burden on them. It will certainly also reduce compliance and administrative costs to withholding agents and tax authorities involved in tax collection.

7. UK Policy towards Sports Events

The United Kingdom recognizes the benefits that international sports events can have for cities and regions. In 1994, a Major Events Steering Group was founded to help sport governing bodies and local authorities in their bids to host major sporting events. A report prepared by the group presented a framework for a coordinated and coherent approach to bidding to host events.\footnote{Bids to stage international sport events, Report by the former National Heritage Committee, London 1993.} As a result, the UK Sports Council adopted a policy and strategy for major sporting events and the government released funds from the national lottery to support their organization.\footnote{IBFD UK Tax Breaks for the 2013 UEFA Champions League Final, Practice 2, p. 21} HMRC announced a review of their past practices on the taxation of non-resident sports people, under which training days were taken into account when calculating the proportion of worldwide endorsement income subject to UK tax.\footnote{IBFD UK Tax Breaks for the 2013 UEFA Champions League Final, Practice 2, p. 22} The United Kingdom recorded a growth of interest in sports events after the success of the European Football Championship UEFA EURO 1996. Indeed, the country hosted 291 sporting events in 1997, of which 46 were reported on television outside the United Kingdom (Six Nations Rugby Tournament, Wimbledon, Open Golf Championship, FA Cup Final, the Boat Race and the Grand National). England currently has the broadest portfolio of annual sporting events in relation to the population.\footnote{C. Gratton, N. Dobson & S. Shibib, The role of major sports events in the economic regeneration of cities: Lessons from six World or European Championships, in Sport in the city: The role of sport in economic and social regeneration p. 36 (C. Gratton & I. Henry eds., Routledge 2001); and R. Baldwin, Can football come home again? 4 Sports Law Administration & Practice 2, p. 1 (1997).} A strong bidder for major sports events, the United Kingdom has long opposed the demands of sports organizations as regards the implementation of special tax regimes for championships. However, the UK’s unique tax laws regarding athletes have, at the same time, been heavily criticized by sports officials and governing bodies. The UK tax system is also perceived by many top international sportsmen to be overly restrictive. Applying a broad interpretation of the source (territoriality) principle, the United Kingdom imposes tax on earnings from duties performed in the United Kingdom by non-resident employees, as well as profits from business activities of non-residents, in so far as these activities are conducted in the United Kingdom. What is noteworthy is that the tax covers all income, and the criterion for its application is exclusively the performance of sporting activities in the territory of the United Kingdom. As a result, the taxation of foreign athletes covers all income, regardless of where it is earned (worldwide income), as long as it can be attributed to the activities undertaken in the United Kingdom. Such an approach, allowing for the collection of a domestic tax on income of foreign non-residents, results in the extraterritorial taxation that many sports stars appearing in the United Kingdom object to. In 2010, the famous Jamaican sprinter and Olympic champion Usain Bolt refused to participate in the Diamond League competition because of the UK tax framework, under which tax would be payable both on his winnings and on part of his global earnings from sponsorship. Taking into account the tax breaks for selected sporting events, the reaction of the Jamaican sports celebrity is not surprising. It is natural that in such a situation many would be opposed to the unequal treatment and would decide that it’s not worth it.
to take part in competitions in respect of which they will be burdened with tax at source, especially since participation in other championships in the same country may yield a tax-free prize. The decision of the Jamaican runner sparked a debate in the media and has launched an open and heated discussion about the tax treatment of sporting events. It has also encouraged other athletes to refuse to participate in competitions not covered by tax immunity. For example, in September 2010, American golfers announced that they would not participate in the 2010 Ryder Cup in Wales because of the high withholding tax.

Since other host countries have satisfied the tax immunity requests of sports governing bodies, the United Kingdom had to comply with the emerging practice to remain a competitive bidder. For example, a tax break for players was introduced recently in Germany, where the tax rules are similar to the United Kingdom. The 2012 Champions League final in Munich was exempted from income tax, although Germany normally levies tax on non-resident sportmen in respect of payments for German performances. Despite the persistence of the German government in retaining its rigid taxation rules for many years, Germany unilaterally gave up its taxing right for the 2012 Champions League final. As a result of such tax competition, although the general UK approach to the taxation of athletes is consistent with article 17 of the OECD Model, the demands of sports organizations regarding the implementation of special tax regimes for championships have resulted in inconsistent behavior by the UK tax authorities, for example, in regard to the Olympic Games in London in 2012 and the 2011 Champions League final. Worried about the prestige of the 2013 Diamond League event, which has been damaged by the absence of runners such as Usain Bolt, the UK Finance Minister recently announced that a tax exemption will be provided for the Diamond League event as well.

The exemptions granted by the United Kingdom for major international sporting events are specifically targeted and apply only to particular events referred to in the tax measures. The problem is that inconsistent tax policy concerning athletes’ participation in events held across the country and incidentally issued regulations raise questions in light of the principles of equality and fair taxation. Such an approach can also result in pressure from other athletes and organizations requesting similar tax preferences. While the introduction of a tax break is meant to increase the country’s attractiveness as a candidate to organize a specific event and that was also the intention of the amendment that enabled the United Kingdom to be chosen as the host of the Champions League final, it seems inappropriate that the exemption only covers football players taking part in one sporting event and omits participants in the Wimbledon Championship and the British Open Golf Championship. Given that the overall cost of the athletic tax breaks to the Treasury is estimated at EUR 1.5 million a year, the government could have extended relief of this kind to take in the wider international sports arena by exempting, for example, international tennis players and athletes who have made public their concerns about competing in the United Kingdom because of restrictive tax regimes.

8. Summary and Conclusions

The general UK tax law rules provide for the taxation of foreign athletes on income arising in connection with a performance in the United Kingdom, which includes appearance fees, awards and a portion of endorsement payments considered to be earned during their stay in the United Kingdom. Controversies have arisen in regard to the allocation of sponsorship income and other commercial income in accordance with time spent in the United Kingdom, especially since this may imply taxing payments made abroad by a non-resident to a foreign athlete or intermediary company. Although players from foreign teams are normally liable to pay tax when they appear in events in Britain, due to pressure from UEFA, the United Kingdom gave up its withholding tax with regard to the Champions League final to be held in London on 25 May 2013.

The tax treatment of income earned by members of football teams participating in the Champions League is regulated by the domestic law of the host country (United Kingdom) and the residence countries of the players, as well as by tax treaties. As required by UEFA, the United Kingdom provided a tax exemption for non-resident team players and officials on income earned in connection with the 2013 Champions League final held at Wembley Stadium. To satisfy this requirement, special legislative measures had to be introduced because, contrary to the expectations of UEFA, the general laws of the United Kingdom provide for a withholding tax on non-resident individuals. The special tax regime adopted for the final ensures that members of foreign clubs will not pay tax in the United Kingdom on their tournament-related income, including a portion of their worldwide income that would otherwise be taxed at UK rates. There will be no exemption for UK residents.

The 2013 final will be a major celebration of football in the United Kingdom and an acknowledgment of Wembley’s status as one of the very best football stadiums in the world. The United Kingdom was chosen to host the event following its earlier agreement to exempt foreign athletes in regard to the 2011 UEFA Champions League final. UEFA, as the owner of the Champions League, expects the host country to establish a preferential tax regime and make legislative changes that are consistent with the expectations of UEFA. Meeting the requirements of the sport organization is, in fact, a precondition for obtaining the right to host the event. There is a precedent for putting UK legislation in place to satisfy the requirements of international sports organizations. Similar tax measures were enacted for the 2012 Olympic Games in the Finance Act 2006, which exempted the International Olympic Committee and participating non-resident athletes and officials.


involved in the Games from any tax liabilities. The current precedent could also help the United Kingdom in its bids to host other major sporting events. However, the question arises whether UEFA’s success in obtaining tax exemptions through the Finance Act 2012 will incite other sports organizations to be equally demanding in terms of tax legislation. The United Kingdom definitely needs a well-conceived, transparent and consistent tax policy towards sporting events to enable it to successfully bid for major championships. As it currently stands, however, the policymaker seems to be UEFA.

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