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By PwC Deutschland | 14 September 2022

Payments from German Sports Aid Foundation to be taxed as business income

In a recent ruling, the Supreme Tax Court decided that payments made by the German Sports Aid Foundation (Stiftung Deutsche Sporthilfe) to an athlete constitute business income of the athlete and thus is not only subject to income tax but also trade tax.

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Background

In the case of dispute, the plaintiff was an athlete, competing at high levels (competitive athlete), and as a member of a sports sponsorship group as a successful athlete he participated in (inter)national championships. Within the scope of his trade as an "athlete", he recorded the income from his sponsorship contracts as trading income and deducted the corresponding expenses in connection with his sports activities. The benefits granted to him by the German Sports Aid Foundation (S), on the other hand, were included in his tax return as other income (“recurring payments”, as defined in Section 22 No. 1 sent. 1 Income Tax Act), with an offset against income-related expenses in the same amount and without providing any further explanations and proper documentation.

The tax office took the payments from S as income from the plaintiff's business and at the same time did not allow the income-related expenses claimed. The Thuringia Tax Court dismissed the action brought by the plaintiff: The plaintiff had generated significant commercial income from sponsorship contracts as a professional athlete. The payments made by S were directly associated with this commercial sporting activity. The Supreme Tax Court has now confirmed this latter decision.

Decision

The payments in dispute are attributable to the activity (business) of the plaintiff as an athlete (sports promotion as a top athlete). His business as a whole covered the income from his promotional activity as well as the payments received from S, the latter being made in respect of his successful sports activity.

The mission of the Sports Aid Foundation is to assist Germany’s best athletes on their way to a career in business, where athletes previously struggled due to demanding training schedules and travels. The benefits from S were thus caused by the plaintiff's business operations as an athlete. Although it is true that sporting activities as such are not subject to income tax, the situation in the case of dispute is a different matter: The continuing support from the German Sports Aid Foundation is inextricably linked to and connected with the commercial promotion of this sporting activity in the context of the sponsorship agreements, since the cost-intensive activity as a top athlete and the conclusion of substantial supplier and sponsorship agreements are intertwined. **Both activities are thus part of one business.**

The payments from S were made in consideration of the plaintiff's achievements as an athlete and depended on his level of performance and his participation in national and international competitions. Since the specific sports-related expenses in question had already been considered and deducted for tax purposes as part of his normal business operations (i. e. in the context of its sponsorship activities), a further deduction of those expenses, even by way of a lump-sum amount, was not possible. The additional amounts paid to satisfy the need for a balanced nutrition are also non-deductible for income tax purposes.

In addition, the Supreme Tax Court pointed out that it is irrelevant, as claimed by the plaintiff, whether the sports activity is pursued as an amateur or as a professional. Neither is it relevant whether the (single) business as an athlete was carried out on a full-time or part-time basis.

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Source

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Keywords

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