



International  
Fiscal  
Association

# International Tax Bulletin

## IFA Ukraine

Issue #2(5)

June, 2010

### Contents

**Taxation of Foreign  
Footballers in Ukraine:  
Is One Match Sufficient  
to Tax?**

by Sergiy Melnyk,  
Associate, Salans, Kyiv

www.ifa-ukraine.org  
ifa@ifa-ukraine.org  
+38 044 492 82 82  
Oksana Borovska  
IFA Ukraine Coordinator



Topic of the Issue:  
**Taxation of Foreign Footballers in Ukraine:  
Is One Match Sufficient to Tax?**

## Taxation of Foreign Footballers in Ukraine: Is One Match Sufficient to Tax?



Contributed by  
Sergiy Melnyk,  
Associate,  
Salans, Kyiv

Recently, the Ukrainian parliament has passed amendments to the Personal Income Tax Law (“**PIT Law**”), which, in particular, provide a tax exemption for salaries paid to foreign team members participating in the European Football Championship 2012 in Ukraine (“**EURO 2012**”).

At the same time, the PIT Law does not contain specific rules as to the taxation of income of foreign footballers (i.e., non-resident individuals) participating in matches or tournaments on Ukrainian territory and, in particular, the PIT Law does not provide any tax exemption for such income. As a result, there arises an issue of whether foreign footballers are liable to tax in Ukraine on the portion of their income (salaries, bonuses, etc.) relating to their participation in matches and tournaments held on Ukrainian territory.

Under the PIT Law, non-residents are taxed in Ukraine on their Ukraine-sourced income only. For this purpose, Ukraine-sourced income is defined as any income received by a taxpayer from conducting any type of activity on Ukrainian territory. Ukraine-sourced income, in particular, involves salary income paid by a resident and/or non-resident employer as a result of employed activity on Ukrainian territory.

Thus, foreign footballers’ income (salaries, bonuses, etc.), irrespective of the source of payment, may qualify as Ukraine-sourced income if it has been paid for “employed activity on Ukrainian territory”.

The PIT Law does not establish any minimum period for the carrying on of such employed activity in Ukraine, i.e., participating in a one-off football match can theoretically be sufficient to argue that footballers have carried on employed activity on Ukrainian territory and, consequently, the portion of the footballers’ income (salaries, bonuses, etc.) relating to such match is the Ukraine-sourced income subject to personal income tax (“**PIT**”) at a rate of 30% in Ukraine.

If foreign footballers participate in a series of matches (e.g., a tournament) on Ukrainian territory, the portion of their income relating to such matches would be more likely to qualify as Ukraine-sourced income subject to PIT. Such a conclusion can be logically drawn from the fact that the PIT Law specifically exempts from taxation salaries paid to foreign team members participating in EURO 2012, which presumes that footballers’ income (salaries, bonuses, etc.) relating to participation in any other football tournament held on Ukrainian territory should be taxed in Ukraine.

According to the PIT Law, if any Ukraine-sourced income is paid by a non-resident to another resident, such income must be credited to a current account opened with a Ukrainian bank, the latter being tax agent for the income recipient. Hence, foreign footballers must open bank accounts with Ukrainian banks and their clubs must wire the portion of their income (salaries, bonuses, etc.) relating to participation in matches or tournaments on Ukrainian territory to such accounts. In turn, the Ukrainian banks would withhold PIT from such income when debiting the accounts. If this procedure is not followed, in order to meet the Ukrainian tax obligation, the footballers would need to file an annual tax return and pay the PIT in Ukraine.

Having addressed the Ukrainian domestic law requirements, we now consider whether foreign footballers could be exempt from PIT by virtue of Ukrainian tax treaties.

Given that most Ukrainian tax treaties follow the OECD Model Tax Convention (“**OECD Model**”), this article discusses the

relevant provisions of the OECD Model. Article 17.1 of the OECD Model sets out rules for the taxation of sportsmen, such as footballers, as follows: “notwithstanding the provisions of Article 7 and 15, income derived by a resident of a contracting state as ... a sportsman from his personal activities as such exercised in the other contracting state (e.g., Ukraine) may be taxed in that other state (e.g., Ukraine).”

Notably, Article 17.1 of the OECD Model excludes the application of Article 15 (Income from Employment) to sportsmen’s income, which means that footballers’ income (salaries, bonuses, etc.) cannot be exempt from PIT in Ukraine as employment income, according to Article 15.2.

It therefore appears that foreign footballers’ income (salaries, bonuses, etc.) relating to participation in matches and tournaments held on Ukrainian territory cannot be exempt from PIT by virtue of Ukrainian tax treaties (at least, those following the OECD Model).

Finally, it should be said that, although potentially there exists the possibility of taxing foreign footballers’ income (salaries, bonuses, etc.) relating to participation in matches and tournaments held on Ukrainian territory, Ukrainian tax authorities have never raised this issue. Perhaps it is a matter of international consensus, i.e., if Ukraine seeks to tax foreign footballers, the respective countries may also wish to tax Ukrainian footballers participating in matches on their territory.

### 2010 IFA Ukraine Partners:

 **ERNST & YOUNG**  
Quality In Everything We Do

 **Magisters**

 **Nexia DK**  
AUDITORS & CONSULTANTS