



Robert W. Wood

THE TAX LAWYER

TAXES 1/23/2015

Washington Nationals \$210M Pitching Contract For Max Scherzer Is About Taxes

You have to hand it to Scott Boras, super-agent for pitcher Max Scherzer. Boras usually doesn't leave money on the table, and this time, there are huge tax dollars too. DC isn't exactly the Cayman Islands, but maybe better. In fact, perhaps hoping for more Beltway bound talent, the Washington Post is already asking if the \$210 million deal can [be a model for other superstars thinking of DC](#). Washington may be the center of bureaucracy government, but it's got some odd laws other places might try to dupe.

Scherzer and the Nationals forged a clever contract that Mr. Boras claims will save Scherzer seven or eight figures in tax dollars. It would not have worked in New York, LA or many other baseball cities, he said. That's because state taxes loom large. Nationals General Manager Mike Rizzo also commented that the tax deal bridged the gap to make the deal possible. Think of it as arbitrage of tax dollars, since amazingly, they do not expect Mr. Scherzer to pay DC taxes.

Little or no DC taxes for a DC player, you ask? The key is so-called home rule. The Home Rule Act prohibits the District from imposing a commuter tax on non-residents. They make up over 60% of the city's workforce, and although pro athletes may not have been *intended* as beneficiaries, if the shoe fits.... Since the Home Rule Act exempts workers from DC's 8.95% income tax if they reside elsewhere, athletes live outside DC during the off-season. Talk about getting home free. Literally.



Pro athletes are used to tax planning. Take Florida resident [Tiger Woods, who said Phil Mickelson was right](#) that California's 13.3% tax rate was too high. Scherzer also lives in no-tax Florida. And even if an athlete does not go for the tax gusto in Texas, Florida or Nevada, other DC players like Jayson Werth and Ryan Zimmerman live year-round in Virginia (5.75%). Nationals young slugger Bryce Harper lives in no-tax Nevada.

Scherzer's contract dovetails with the tax law with an aggressive bonus structure. Reportedly, Scherzer can pocket \$50 million that will not be subject to state income tax. Moreover, the contract is paid \$15 million a year for 14 years. A staggering \$105 million comes after the contract expires in 2021. If he stays in Florida, it shouldn't be subject to DC taxes.

Professional athletes and entertainers face a dizzying array of tax laws, and many get whipsawed. A good example is [Manny Pacquiao, who is embroiled in two tax fights](#). Between the states and other countries, taxes can make some wins feel like losing, as where [Phil Mickelson won the British Open, but California taxed it](#). Endorsement and royalty income can be especially ethereal, hopefully alighting where tax rates are low.

Yet the [tax sand traps for pro athletes](#) can be deep. All of [Lionel Messi's criminal tax troubles](#) were over endorsement and royalty income. Foreign athletes and entertainers must file U.S. income tax returns and face [special withholding rules](#). What is considered U.S.-source can be debated but

includes pay for performances, endorsements, merchandise sales, and royalty or other income closely related to the event.

When you are a resident—as Mickelson is of California—you get taxed on *everything*. Most PGA Tour players live in no-tax states like Florida or Texas. In 2012, California [raised tax rates to 13.3% from 10.3% for those making more than \\$1 million](#). Some people head for the exits. Yet many who leave find it's not as easy to escape California's clutches as they thought. A California resident is anyone in the state for other than a temporary or transitory purpose. See [FTB Publication 1031](#).

Plus, it includes anyone domiciled in California who is outside the state for a temporary or transitory purpose. The burden is on *you* to show you're *not* a Californian. In light of such rules, Max Scherzer's pitching deal sounds better and better.

For alerts to future tax articles, click to follow me on Forbes.com. Or email me at Wood@WoodLLP.com. This discussion is not intended as legal advice, and cannot be relied upon for any purpose without the services of a qualified professional.