



Robert W. Wood

THE TAX LAWYER

TAXES | 6/22/2013

Lionel Messi Tax Fraud Case Should Settle

Star footballer [Lionel Messi](#) has a lot of fans. Even if you're not one of them, it's hard not to have some sympathy for an athlete who didn't even know he had a tax problem until he read it in the press, Internet and TV. The [Barcelona](#) star and his father, Jorge Horacio Messi, are accused of scamming \$5.3 million in taxes in 2007-2009. A Judge had to accept the prosecutor's suit for it to move forward.



Lionel Messi Poster for Copa America - Buenos Aires - Argentina (Photo credit: Adam Jones, Ph.D. - Global Photo Archive)

Still, this Judge may have had little choice. See [Judge accepts Lionel Messi tax fraud case, issues summons](#). Jorge Horacio Messi has acted as one of his son's agents since his son turned 16. In Spain and worldwide, Messi is a high profile target and the charges threaten his image. Ironically, the allegations against are all about image rights and how and where payments should be taxed.

Messi's father is alleged to have contacted third parties to set up shell companies in Belize and Uruguay to own the rights. The prosecutor, Mr. Amado, first seemed mostly after Messi's father, but Lionel is an alleged accomplice. The Spanish daily [El Pais](#), says Lionel ratified and consented to his father's scheme once he turned 18.

Messi's lawyer, Angel Juarez, released a statement about the surprise nature of the accusations. He hadn't received any notices as one would expect. Yet Mr. Juarez has also claimed personal responsibility for the star's tax filings. Law firm Juarez Veciana said Messi "scrupulously complies with Spanish legislation." And much about this case and the use of companies to source income is debatable.

Messi is arguably the best player of a generation. He won four straight FIFA world player of the year awards. He scored numerous goals in the Spanish league this season. He led Barcelona to its fourth domestic title in five years. That means money, making him (according to Forbes) the world's 10th highest-paid athlete.

Messi is reported to have earned \$41.3 million up to June of this year, \$20.3 million from his club salary and \$21 million in endorsements. The prosecutor claims Messi and his father used Belize and Uruguay shell companies to avoid paying tax on image rights earnings. The complaint lists Messi's sponsors from the period as including Barcelona, Adidas, Danone, Konami, Procter & Gamble, Pepsi-Cola and Telefonica, plus others.

Messi and his father Jorge must appear in court in Gava (near Barcelona) September 17th over the allegations. "We declare that our client will pay the amount determined," Messi's lawyers said. "But we believe that our client has already paid what was legally obliged." Some claim this sends mixed signals. See [Messi's lawyers make confusing contradiction in tax fraud case](#).

Actually, though, it reflects the reality between civil and criminal tax charges. Some taxes may well be due, unless Messi is prepared to spend years in court litigating the tax position he and his father took. However, was a crime committed? There is a large gap between criminal and civil tax cases.

Nevertheless, according to [El Pais](#), the case could result in one to six years in prison and penalties of up to six times the amount evaded. If they are found guilty Messi and his father could face fines of 150% of the concealed earnings and two to six years in prison. Still, it is a little hard to see this as a criminal case, particularly considering the advisers that are likely to be involved.

Even if image rights were assigned to companies domiciled in tax havens, that's not atypical for athletes and entertainers. They have complex tax lives and assigning image rights offshore is arguably not criminal by itself.

Disputes about how much is allocated to a particular country and where endorsement earnings should be taxed are common. See [IRS Sand Trap For Pro Golfers](#). Even experts often disagree about sourcing of income, especially for non-Americans.

Is a settlement likely? Hopefully, yes. Messi surely wants to get this behind him. The Spanish authorities can probably collect some taxes and penalties, and they've already gotten a big PR push. Unless they have smoking gun evidence that is compelling, a settlement—perhaps even one that is entirely civil—seems the best way out of this Messi case for everyone.

You can reach 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.