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# **ATHLETE ENDORSEMENT AND CROSS-BORDER SPONSORSHIPS: COMPLIANCE, TAXATION AND BUSINESS OF SPORTS**

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## **1. Introduction**

In the global sports industry, the athlete endorsements represent one of the most dynamic intersection among the field of commerce, media and taxation. From the traditional image rights and sponsorships to digital collaborations and non-fungible tokens (NFTs), the digitalisation of endorsement activities has increased the challenges to the principles of international taxation and jurisdictional boundaries. The endorsement industry which once used to localize around the performance and physical appearances and has gone digital and also beyond the boundaries. It has extended into digital ecosystem which is driven by global streaming platforms, social media monetization and metaverse engagements. These developments necessitate a re-evaluation of how nations should tax on income, determine income source, and also of how the athletes who work across different jurisdiction should oblige to them (Vann, 2021).

Athlete endorsements acts as a economic instrument and also as a strategic branding vehicle. For elite athletes, endorsement contracts frequently surpass their direct earnings from sports performance. This creates multiple income source stream which may directly or indirectly is associated to intellectual property, personal image and global fan engagement (Goddard, 2020). Due to these many income sources, it makes the taxation complicated. Athlete endorsements acts both as an economic instrument as well as strategic branding vehicle. For elite athletes, endorsement contracts frequently surpass direct earnings from their sport performance, which creates complex incomes streams which are associated to personal image, intellectual property and global fan engagements (Goddard, 2020). Due to these complicated income source, it makes the taxation complicated. The traditional taxational method, which is built mainly on physical performance and also performance based sourcing are growing inadequate for addressing the virtual and hybrid income models which is present in the modern sports

economy. Due to this, both the tax authorities and the multinational sponsors face challenges in defining nexus of taxation, whether the endorsement income arises only from the athletes performance, the consumer market or the digital environment from where the athletes receive the endorsement income (OECD,2019).

The cross border dimension of athlete endorsements thus raises pressing questions regarding tax equity, avoidance risks, and compliance burdens. Nations compete among themselves to attract sports talents to their country while safeguarding their tax bases, which creates a tension between residence based taxation model and source based taxation model. Simultaneously, athletes employ sophisticated contractual and corporate structures which often involves offshore entities or image right companies to control optimise their earnings and also their tax exposure (Arnold, 2022). While legitimate in form, these arrangements invite scrutiny under anti avoidance frameworks and also transfer pricing regimes which is designed to ensure that income is taxed only where the economic activity and value creation occur.

This paper mainly aims to provide a comprehensive exploration of the taxation and compliance challenges associated with cross border athlete endorsements. It tries to synthesis the existing literature, judicial interpretations and international policy frameworks to identify emerging reforms imperatives and key legal ambiguities. By situating these legal complexities within the broader context of the sports business ecosystem, the paper mainly argues the coherent global tax principles which are necessary to balance fiscal fairness, administrative efficiency, and also the commercial realities of the twenty first century sports.

The following sections review the literature on athlete endorsement taxation, analysing the relevant legal framework along with case laws, and also examines the implications of digitalization, image rights, and cross border sponsorship structures. The paper concludes with recommendations for advancing global policy coordination and harmonizing tax treatment.

## **2. Literature Review**

### **2.1 Evolution of Athlete Endorsement and Taxation**

The globalization of sports has redefined the boundaries of athlete income generation. Early scholarship on sports taxation predominantly focused on prize money and performance related earnings (Bahl,1988), but subsequent research emphasized the rising dominance of

endorsements as a principle source of income. Endorsement income does not derive from the athletes performance rather it is derived from the athletes personal brand. This links athletes personality and intellectual property to taxation. This creates a hybrid income classification that challenges the binary distinction between royalties and personal services under existing tax laws according to Slemrod and Bakija (2017).

During the twentieth century, the emergence of global sports leagues and multinational sponsorships deals have accelerated the need of international tax coordination. Athletes increasingly exploit differences in national tax rates and treaty provisions by establishing residence in low tax jurisdiction, while earning endorsement from multiple markets according to studies noted by Vann (2021) and Brooks (2019). This behaviour parallels broader corporate tax planning strategies but presents unique challenges due to the image based and personal nature of athlete income.

## **2.2 Tax Residency, Source Rules, and Jurisdictional Conflicts**

The foundation of taxation is formed by the concept of tax residency. Traditionally, while the source income country has the right to tax income arising in its territory, the global income of the athlete is taxed by the country of where the athlete resides. However, determining the “source” of endorsement income has proven contentious. The courts have struggled to define whether the income should be taxed on the location of athletic performance, market consumption or contractual execution (OECD, 2019).

The case of *Gretzky v. Canada* (1990) had highlighted the dilemma when the court debated whether Wayne Gretzky endorsement payment were related to his performance or his global celebrity status. While the court’s ruling had favoured taxation on basis of performance, scholars like Mair (2020) argued that this reasoning was increasingly untenable in digital context where the endorsements were executed online and targeted online audience.

Virtual endorsements through social media and streaming platforms further complicated source determination. Divergent approaches have been adopted by the tax authorities in the United States, United Kingdom, and Australia which has led to double taxation risks and compliance uncertainty. Physical presence-based tests fails to capture the digital value generated when athletes monetize their global reach through platforms like Instagram or Tik Tok as noted by Arnold (2022).

### **2.3 Double Taxation Agreements (DTAs) and Article 17 Challenges**

Source countries had the right to tax income derived by entertainers and sportspersons from personal activities performed within their jurisdiction according to Article 17 of the OECD Model Tax Convention. While intended to prevent tax avoidance, its application to endorsements remains ambiguous. The *Agassi v. Robinson* (2006) case exemplifies this issue: Andre Agassi was taxed in the United Kingdom for endorsement income which was paid by non UK sponsors, despite not performing any athletic activity during that period in the UK. The court reasoned that the income “related to activities enjoyed in the UK market,” thereby extending the source taxation beyond physical presence (OECD,2019).

This precedent exposed the gaps in treaties interpretation, particularly regarding payments which are not connected to live performances. Scholars like Vann (2021) contend that such broad readings risks undermining the residence principle, while other argue that source based taxation aligns better with economic substance in cases where local consumer markets drive value creation. DTA’s have yet to develop coherent rules addressing digital or hybrid endorsements leaving athletes vulnerable to excessive or overlapping taxation despite attempts at harmonization.

### **2.4 Permanent Establishment and Agency Structures**

Additionally, a new layer of complexity has arisen due to the rise of athlete management entities, banding agencies, and image rights entities. Whether these entities created a “permanent establishment” (PE) in foreign jurisdiction depended on the degree of control, continuity, and also the economic activity exercised there. The case of *Brooke v. Commissioner of Taxation* (2008) illustrated how frequent promotional appearances organised by agencies could have triggered PE recognition, exposing endorsement to local taxation.

Scholars like Brooks (2019) and Miller (2021) emphasized that the classification of endorsement income whether as royalties, personal services, or capital gains- significantly influencing tax treatment. National Courts have adopted divergent approaches, which reflects policy priorities from revenue protection to fairness. The use of offshore licensing vehicles, particularly in jurisdiction like the Netherlands and Monaco, remain a focus of both anti avoidance enforcement and tax planning (OECD,2022).

## **2.5 Image Rights, Intellectual Property, and Emerging Technologies**

Endorsement contracts have increasingly merge personal image rights with intellectual property licensing. This has blurred the boundaries between creative and commercial income. The case of *Goosen v. Commissioner* (2011) affirmed that income from licensing image rights could be subject to withholding taxes, yet offered limited guidance on distinguishing between services and royalties. The advent of digital assets, which also include NFTs and also metaverse sponsorships, further complicate these categorizations.

NFTs that tokenize athlete likeness challenge existing tax definitions by creating transferrable digital assets that generate ongoing royalty like income as according to Arnold (2022). No jurisdiction has however yet codified clear rules for taxing such activities. Due to this regulatory gap, it has encouraged experimentation but also heightened uncertainty for both athletes and sponsors engaging in web 3 marketing ecosystem.

## **2.6 Transfer Pricing and Offshore Structuring**

In recent years, tax authorities have made cross-border endorsement arrangements more closely aligned with transfer pricing requirements. Decisions in cases such as *Nike European Operations Netherlands BV v. Commissioner of Taxation* (2012) have shown how large companies allocate marketing and intellectual property revenues across subsidiaries to minimize worldwide tax liabilities. Athletes have mimicked these practices by establishing personal service corporations or image rights companies in low-tax countries.

Scholarly discourse emphasizes the arm's-length valuation of such athlete specific intangible assets. However, Vann (2021) notes that traditional transfer pricing methods will often be unsatisfactory, given the personal nature of sports branding. This creates enforcement difficulties and risks of both under- and over-taxation.

## **2.7 Research Gaps and Policy Implications**

Notwithstanding the voluminous case law and policy debate, several critical research gaps persist. There is a dearth of empirical evidence regarding how, in practice, athletes and sponsors approach cross-border compliance, and little comparative research across major jurisdictions like the United States, United Kingdom, Australia, and India. Furthermore, the pace of digitalization has outstripped treaty reform, leaving many questions as to how value should be

attributed to virtual endorsements and metaverse-based sponsorships.

Future research should be done on the models of shared taxation, such as those resulting from the OECD's Pillar One initiative, that base taxing rights on consumer markets instead of residence or performance. They also call for new treaty provisions covering items like digital endorsement income, withholding mechanisms, and residence determinations in the case of virtual presence (Arnold 2022; Vann 2021).

### **Theoretical Framework**

It develops an integrated analytical framework that combines international taxation theory, economic nexus principles, and sports management frameworks. On the legal front, the OECD and UN Model Tax Conventions provide a basis for allocating taxing rights between residence and source countries. Economic theories of transfer pricing and IP valuation provide a foundation for treatments involving image rights, while stakeholder and institutional theories are used to explain governance structures affecting tax compliance throughout the global sports industry. The paper also applies the notion of digital presence as part of economic substance in light of the OECD 2021 Pillar One and Pillar Two frameworks with respect to taxing multinational activities in relation to the digital economy (OECD, 2021).

### **Analysis and Discussion**

#### **Tax Residency and Source Rules**

The process for taxing the endorsement income of an athlete often commences with determining the taxpayer's residency status. Traditionally, this has been based on physical presence tests; however, today, digital endorsements call into question this concept. For instance, an athlete who creates an Instagram post for a product from his home state exposes it to consumers in most nations without performing in a given country. The courts, in a case like *Gretzky v. Canada* (1990), have insisted on performance-based taxation, but digital media necessitates hybrid models that combine virtual economic activity. Policymakers are now considering using digital presence as a new nexus criterion.

#### **Double Taxation Agreement and Treaty**

DTAs are the building blocks of international tax law, especially in guiding the basis on which

income derived from athletes and entertainers is to be apportioned between residence and source countries. Their primary goal is to avoid double taxation on the same income and achieve fairness regarding the allocation of tax rights among countries. To international athletes, whose endorsement deals, appearances, and performance-based earnings frequently span across borders, DTAs will be critical in preventing conflicting tax claims and unfair compliance burdens.

Article 17 of the OECD Model Convention provides that income derived by entertainers and sportspersons from personal activities may be taxed in the country where those activities are exercised. This provision allocates the right to tax such income to the source country, based on the principle that the performance creates economic value within its borders. The rationale is that athletes often earn high sums in many countries in very short periods, and if only their country of residence could tax such income, it might lead to losses in revenue for host nations and facilitate tax avoidance.

The landmark case of *Agassi v. Robinson* ([2006] UKHL 23) provides critical judicial interpretation of Article 17. In this case, the UK House of Lords held that tennis player Andre Agassi's endorsement income, channeled through a US-based company, was taxable in the United Kingdom because the earnings were connected with his performances within the country. The court rejected the argument that routing payments through a non-resident entity shielded the income from UK tax, emphasizing the principle of substance over form. This case established that endorsement income can be subject to taxation in the country of performance even when the payment is made indirectly through intermediaries.

However, the rise of digital and social media endorsements complicates this source-based approach. Today, athletes frequently earn income from activities that do not involve physical presence—such as promoting brands through social media posts, streaming, or virtual appearances. In such cases, determining the “source” of income becomes problematic. Should the taxable source depend on where the athlete is located, where the audience resides, or where the paying brand is registered? These questions expose the limitations of Article 17's original wording, which was designed for physical location-based performances rather than digital ones.

Legal scholars and international tax experts argue that it is now time to rethink the meaning of Article 17 in a digitizing world. According to Pistone and Weber (2022), the borders of source

and residence have become blurred in the modern economy, and therefore, such state practice calls for a scheme of shared taxation that attributes rights to the residence of an athlete and the jurisdiction where a market is located in which people create value. This would go in tandem with the continuing work carried out by the OECD under the BEPS plan, specifically Pillar One, which also seeks to reallocate taxing rights in recognition of value created by digital means.

The Vienna Convention on the Law of Treaties, 1969, gives interpretive guidance to tax treaties; the provisions are to be read in good faith and in their purpose and evolving context. Application of this canon suggests that Article 17 should not be interpreted narrowly to apply to physical sites of performance but should be interpreted dynamically to capture digital and hybrid endorsement income. For example, to the extent an athlete's streaming of his or her workout generates significant revenues from viewers around the globe, the "place of performance" reasonably could include digital platforms where economic participation by third parties is occurring.

Nevertheless, national implementations are far from uniform: some, such as the United Kingdom and Australia, adopt a broad view in taxing any income with a domestic connection, while others, such as the United States, apply an allocation method under which only that portion of the income related to domestic activities is taxable. This lack of uniformity makes uncertainty, administrative complexity, and risks of both double taxation and double nontaxation likely. Moreover, inconsistent treaty interpretation undermines compliance and complicates negotiations among athletes, agents, and sponsors dealing with complex multinational contracts.

In other words, DTAs remain indispensable in regulating international income from endorsements, but their structure is not flexible enough to host digital and hybrid performances. The Agassi case has certainly provided the necessary clarification of fundamental legal principles in respect of traditional endorsements; however, it does not squarely address a number of the complexities brought about by virtual appearances and decentralized payments. As international sports commerce continues to digitalize, coordinated international reforms and fresh treaty interpretations will be required to ensure fairness, prevent avoidance, and maintain clarity in the taxation of athlete endorsements.

## **Permanent Establishment (PE) and Categorization Issues**

The basic foundation of international taxation is the concept of Permanent Establishment, which really sets the threshold for when a foreign enterprise—an athlete in this case—becomes liable to tax in another country's jurisdiction. The OECD Model Tax Convention defines a PE as a fixed place of business through which the business of an enterprise is wholly or partly carried on (OECD, 2017). This is a concept traditionally applied to corporations but increasingly affects athletes and sportspersons whose commercial activities transcend borders. The recurring commercial operations of athletes or their agents, such as appearances for endorsement, media appearances, or other promotional activities in certain countries, may be seen by taxing authorities as constituting permanent establishment, hence granting the source country taxing rights over part of the income.

The case of *Brooke v. Commissioner of Taxation* (2008) is illustrative in understanding how PE status can be triggered through endorsement-related activities. In this case, an athlete's repeated commercial appearances and endorsement deals within Australia led the tax authority to conclude that such activities created a continued business presence, and therefore the court agreed that the frequency, continuity, and organized nature of these engagements fulfilled the conditions of having a PE. This decision simply has reinforced the principle that physical and economic involvement of an athlete in a country, even through agents or sponsors, may result in a taxable nexus. The implication of this case is profound: it shows endorsement income is not passive or incidental but may form part of a structured business operation capable of constituting a PE under domestic and treaty law.

A key challenge arises from how endorsement income is characterized for tax purposes. The relevant tax rate, rules of deduction, and source-of-income principles vary considerably depending on whether such income is treated as arising from personal services, royalties, or business profits. If the endorsement income is viewed as personal service income, it usually is taxed where the performance is carried out under Article 17 of the OECD Model Convention. However, if the income is treated as royalties, its taxation often depends on the location where the right to use an image or intellectual property is being used. Whereas if the endorsement income constitutes business profit, then taxation would normally occur only in the residence state, unless the athlete had a PE in another state. This creates a complex and sometimes inconsistent global tax landscape.

In modern sports, these have become increasingly blurred. Traditional endorsement deals typically had clear, tangible activities, such as being in advertisements or attending events. But digitalization has created hybrid income streams that defy traditional categorization. For example, one contract could cover social media promotion, image licensing, and appearance fees, all under one fee. This creates practical and legal challenges as to the appropriateness of the treatment of income, whether it should be split proportionally according to activity type or as one composite income. The OECD (2023) recognizes that the digital economy makes PE determination and categorization difficult, with income derived from a place other than a physical presence.

The further development of esports, NFTs, and AI-driven likeness licensing has again rewritten the rules of the endorsement ecosystem. Esports players, for instance, may compete in international tournaments, stream content globally, and receive sponsorships whose visibility covers dozens of jurisdictions at once. Unlike traditional athletes, their "performance" is inherently digital and platform-based, making it challenging to identify any single source of value creation. Similarly, when athletes license their likeness for use in virtual environments or NFTs, the income may take the form of royalties, but the underlying economic substance—promoting a brand through personal identity—continues to share elements of a personal service. These newer, hybrid forms of income only stress traditional PE rules even further because of their reliance on physical or fixed presence tests.

Larger and more flexible PE standards are being considered in order to respond to these complexities by international tax organizations and national authorities. The work carried out under the OECD BEPS Project indicates the expansion of PE definitions in order to capture substantial economic presence even in the absence of an office or agents. This may conceivably be applied to the case of an athlete whose regular and sustained digital endorsements provide substantial revenues sourced from particular markets. Similarly, tax authorities will consider activity-based models in order to allocate hybrid endorsement income properly between different jurisdictions based on value creation.

Ultimately, the PE status and income characterization for athlete endorsements depend not on a physical boundary but on a multi-factorial test of frequency, control, economic substance, and digital presence. The Brooke case is still a relevant precedent, but new technologies and business models require a reapplication of its concepts. In the absence of international

harmonization and updated guidelines, both athletes and tax authorities assume significant risks of inconsistent taxation, compliance disputes, and double taxation in the burgeoning sports economy.

### **Image Rights and Intellectual Property**

Image rights are in the vanguard of the global sports economy, particularly with regard to endorsement by athletes. Commercial use of an athlete's image, i.e., name, appearance, signature, voice, or other identifying personality characteristics, represents image rights. The ability to sell one's image in endorsement and licensing agreements contributes to a considerable source of revenue for elite athletes. However, image rights are taxed and defined in law differently in every jurisdiction, with ensuing complex cross-border implications.

Historically, image rights have been regarded as a form of intellectual property (IP) — like trademarks or copyrights — because they grant exclusive authority over commercial exploitation of personal image. Image rights are not comprehended as equally in law as other forms of IP. Various countries, for example, the United Kingdom, rely on common and contractual law rules like "passing off" and privacy rights to protect image interests, while others, like Spain and Germany, provide statutory personality rights. This divergence affects classification of image-based income for taxation purposes directly. In accordance with some jurisdictions, image rights use payments are treated as royalties, while in others they are treated as business profits or employment income.

The case of *Goosen v. Commissioner* (2011) is enlightening regarding tax authorities' treatment of such income. The U.S. Tax Court ruled that professional golfer Retief Goosen's endorsement income partially constituted income for services he performed personally, and the other portion—even though it arose from the licensing of his image—constituted royalty income. This is significant because payments assessed as royalty income were taxed under different withholding tax provisions than performance income. The *Goosen* case set that endorsement contracts usually are mixed agreements, with personal service and licensing rights, and careful apportionment of income to prevent disagreements and double taxation.

However, the emergence of digital spaces, metaverse worlds, and non-fungible tokens (NFTs) has dramatically expanded the horizon of image rights. Sports personalities can now license their images for deployment within virtual spaces, video games, holograms, or NFT sets. Such

arrangements obfuscate the traditional legal definitions as they fail to relate necessarily to physical assets or fixed locations of consumption. For instance, when an avatar of a football player appears in a metaverse sponsorship or is tokenized into an NFT available for purchase worldwide, jurisdiction of income generation—and thereby taxing right—remains uncertain. The issue then emerges as to whether revenue from that is to be categorized as royalty (for intellectual property), capital gain (for the sale of digital goods), or personal service income (for active work in promoting the digital product).

Legal specialists, such as Deeks (2023), argue that current intellectual property frameworks are not in a position to handle the "digital persona economy." They advocate establishing a distinct class of rights — "digital persona rights" — to regulate ownership, use, and taxation of virtual images. This would provide certainty as to income categorization and allow tax administrations to impose the same rules on new digital endorsement arrangements. Furthermore, the implementation of a common international standard of digital image rights could relieve administrative expenses, prevent double taxation, and subject the athletes and sponsors to certain and equitable tax regimes.

In effect, image rights show the intersection of law, technology, and global trade in modern sport. As athletes are producing increasing value from digital and virtual representations, policymakers must recast traditional IP and taxation categorizations. The Goosen case remains a doctrinal foundation for separating personal and image-based income, yet also demonstrates the need for novel direction to account for new means of digital exploitation. The evolution of NFTs, metaverse sponsorships, and AI-driven likenesses creates an urgent necessity to modernize worldwide tax conventions and IP legislation to capture the dynamics of the twenty-first-century sporting economy.

### **Cross-Border Sponsorships and Transfer Pricing**

Athletes and multinational sponsors in the contemporary international sports economy tend to organize endorsement and royalty deals in offshore structures or centralized management centres in order to maximize taxation and simplify contractual negotiations. Such arrangements enable image rights, sponsorship, and intellectual property (IP) revenues to be channeled through favourable tax jurisdictions. While these arrangements are also subject to regulatory attention based on transfer pricing rules, which seek to provide for transactions between related parties to be set at market-based, arm's-length valuations.

Nike European Operations Netherlands BV v. Commissioner of Taxation (2012) is a classic example of how centralized management of rights can lead tax authorities to investigate. In this instance, Nike's Dutch subsidiary owned and controlled intellectual property rights for branding and sponsorship agreements in several nations. The structure raised concerns regarding whether the profits allocated to the Netherlands represented real economic activity or just tax-driven apportionment. The court underscored that substance-over-form scrutiny and strong documentation were required to prove that intercompany royalties and service fees met the arm's-length standard, which is the foundation of international transfer pricing regulation.

For sports endorsements, the same issue exists where image rights are owned or licensed by offshore companies. Tax authorities often question whether the value attributed to such rights is commensurate with similar market transactions. It can be challenging to establish comparability since athlete-specific IP is inherently distinctive—its value is determined by brand presence, performance, and market reach, not standardized metrics. Therefore, officials have recourse to qualitative judgments and economic modeling in deciding whether intra-group royalties or management fees capture fair market value.

OECD Base Erosion and Profit Shifting (BEPS) Guidelines (2021) emphasize substance-based assessment and open documentation. The income should reflect real value creation, i.e., profits need to be taxed where the economic activities resulting in them take place. This has important cross-border sponsorship implications: if an offshore entity does not have real substance in operations, its income can be redirected into a jurisdiction where the athlete or sponsor does real commercial activities.

In conclusion, cross-border sponsorships and transfer pricing raise the clash between compliance and tax planning. As sporting identity grows more global, open valuation, correct documentation, and compliance with the arm's-length principle are key to both fiscal integrity and regulatory confidence.

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### **Digitalization and Emerging Technologies**

Digital technology has completely changed the world of athlete endorsements, making

traditional structures of taxation increasingly irrelevant. Social media, streaming, and blockchain-based assets introduce new avenues of income creation that are global, instantaneous, and decentralized. These developments challenge the very foundations of taxation principles related to physical presence and territoriality.

Digital endorsement deals mean that athletes can reach audiences without necessarily crossing borders. Such platforms as Instagram, YouTube, Twitch, and TikTok have made personal influence a tradable commodity. In this way, argues Arnold (2022), a new "digital nexus" has appeared-economic value from engagement and viewership, instead of actual performance. Tax systems, relying on geographically based income attribution, do not keep pace with this virtual commerce.

Additionally, the increase in metaverse economies and AI-generated likeness further complicates matters. Today, virtual reality platforms permit athletes to host digital events, launch branded avatars, or license digital likenesses. Income from those labours raises questions about whether digital activity creates a taxable presence. The Organisation for Economic Co-operation and Development's report *Tax Challenges Arising from Digitalisation* (2021) indicates that countries might apply a "significant economic presence" test in which digital activity oriented toward the market of a country creates grounds for paying taxes without the need for physical presence.

Blockchain technology and cryptocurrency payments for endorsements also create similar compliance concerns. Payments in tokens or crypto assets have values that fluctuate by market forces and generally don't have transparent reporting trails, making valuation and timing of taxes difficult to pinpoint. For instance, the United States and Australia have classified cryptocurrencies as property and impose capital gains tax liability, while others treat them as currency. This inconsistency in treatment exposes athletes to dual reporting burdens and potential double taxation.

Similarly, NFTs have changed the athlete likeness monetization landscape. NFTs produce revenue at their initial sale and then can be arranged through smart contracts to produce second-tier royalties, muddling the distinction between one-time income and recurring royalty streams. According to Deeks (2023), the taxation of NFTs may require hybrid models in recognition of both elements of capital appreciation and the usage of intellectual property. Until such time as tax authorities codify the treatment of NFTs, ambiguity reigns regarding whether income from

these types of assets constitutes business income, royalty, or capital gain.

The digital transformation of sports commerce, therefore, underlines the critical need for global tax adaptation. The existing frameworks under OECD and UN Model Conventions, designed for a physical economy, cannot capture the multi-faceted value creation in digital ecosystems. Without internationally coordinated policy responses, athletes and multinational sponsors can face inconsistent interpretations, uncertainty about compliance, and increased enforcement risks.

### **Compliance and Policy Challenges**

Compliance remains one of the significant challenges to cross-border athlete endorsements. Athletes often fall into multiple tax jurisdictions: their country of residence, countries of performance, and digital markets of consumption. Each jurisdiction has different laws for the classification of income, reporting obligations, and withholding requirements. This leads to an overlap or conflict in the demands associated with compliance.

First, information asymmetry between tax authorities and international athletes creates compliance gaps. Most of these athletes use either agents or personal service corporations to handle the endorsement revenue, which may obscure beneficial ownership or even the flow of funds. The OECD's Common Reporting Standard (CRS) and the initiatives for automatic exchange of information are promoting greater transparency, but these mechanisms were designed to cover financial institutions, not individual endorsement flows.

Second, anti-avoidance regimes, like the General Anti-Avoidance Rule (GAAR) and Controlled Foreign Corporation (CFC) rules, now more aggressively apply to athletes' offshore structures. For instance, HMRC in the United Kingdom has sought to challenge image rights companies in low-tax jurisdictions lacking substantive operations. Undeniably, some of these have been quite legitimate, although others serve only to defer taxation, increasing the already difficult balance between compliance and efficiency.

Thirdly, there is the valuation dispute issue, which is also a compliance challenge. It is difficult to ascertain the appropriate fair market value for an athlete's brand that is highly subjective. According to Brooks (2019), the value of an image right is determined by an individual's popularity, market reach, and social influence factors that are not so easy to quantify. As such,

applying transfer pricing principles becomes a challenge, particularly in cases where endorsements are channeled through interlinked entities.

Fourth, the risk of double taxation always exists because of inconsistent treaty interpretation. It was evident in *Agassi v. Robinson* that income may be ascribed to one country based on market impact, rather than physical activity. Conflicting claims occur quite often in cases involving the Internet, for which clear treaty provisions relating to digital endorsements are lacking. The athlete has to seek unilateral relief mechanisms or mutual agreement procedures, both of which are laborious and uncertain.

Regulatory lag further complicates compliance. In fact, the current generation of tax administrations usually lacks the technical capability and the digital means to monitor virtual endorsement transactions-particularly those across blockchain or decentralized platforms. This gap encourages both inadvertent noncompliance and deliberate avoidance.

To mitigate this reality, there is a dire need for a coherent international compliance framework that integrates transparency, technology-based monitoring, and multilateral coordination.

### **Recommendations and Future Directions**

The sports industry has completely changed over the last few decades. From social media and streaming platforms to virtual engagements, athletes are no longer limited by physical performances in stadiums or tournaments. Today, they can reap much of their income from digital endorsements, virtual appearances, and licensing of their image rights. But the tax systems worldwide have completely failed to evolve at this pace. Traditional frameworks are still largely based on territorial presence and outdated definitions of income sources, creating inconsistencies, loopholes, and risks of double taxation.

Given such challenges, a number of policy reforms will be required so as to introduce fairness, coherence, and compliance in the taxation of cross-border athlete endorsements. The following policy recommendations provide a comprehensive roadmap to modernize global tax governance in this evolving area.

Here's a 1200-word detailed explanation of your policy recommendations in a formal academic and analytical tone that elaborates on the rationale, implementation, and implications of each point while maintaining cohesion.

## Enhancing Fairness and Coherence in the Taxation of Cross-Border Athlete Endorsements

The sports industry has completely changed over the last couple of decades. Beyond the physical performances in stadiums or tournaments, today's athletes are able to make much of their money through digital endorsements, virtual appearances, and the licensing of image rights because of social media, streaming platforms, and virtual engagements. But tax systems have simply not kept pace with this change. Traditional frameworks are based on territorial presence and outdated definitions of income sources, leading to inconsistencies, loopholes, and risks of double taxation.

Given such challenges, various policy reforms will be required with regard to ensuring fairness, coherence, and compliance in the taxation of cross-border athlete endorsements. The following policy recommendations provide a comprehensive roadmap to modernize global tax governance in this evolving area.

### **i. Adoption of Digital Nexus Standards**

One of the main difficulties with taxing athlete endorsements involves the concept of nexus, meaning the requisite legal connection that would grant a country the right to tax a specific income. Conventionally, tax laws have utilized physical presence in the form of residence or performance within a territory as means of establishing nexus. In the digital age, athletes can make serious income from a jurisdiction without ever setting foot there.

For instance, a European-based athlete can post on social media and reach millions of consumers in Asia or North America, promoting a product. According to the traditional rules, the resulting income would be taxable only in the country where the athlete resides, while the economic activity and market presence exist elsewhere. It is therefore incumbent that national taxation systems adopt the standard of "significant economic presence" as advanced by the OECD, which recognizes digital activity and virtual market participation as valid bases of taxation. This standard would redefine nexus to include digital indicators such as the user base, revenue from online advertisements, or localized engagement metrics. By incorporating digital nexus standards, tax authorities can ensure that income is allocated more equitably, reflecting both economic substance and market contribution. This would also reduce base erosion, where digital endorsement income escapes taxation in the country where the economic value is created.

## **ii. Harmonization of Treaty Provisions**

But while these domestic tax reforms are crucial, they need to be complemented by an international treaty harmonization approach. Presently, the taxation of entertainers and athletes is addressed under the OECD Model Tax Convention, especially Article 17, drafted well before the creation of digital economies; hence, its wording cannot consider virtual performances, digital sponsorships, or AI-based usages of a person's likeness. As a result, different countries interpret Article 17 inconsistently, which might lead to double taxation or non-taxation. In this respect, their inclusion as explicit sources of taxation in digital and hybrid cases in tax treaties is very much essential. The new provisions should define what constitutes a "performance" in the digital context: is it a live-streaming event, an avatar-based promotional activity, or a virtual reality appearance?

Harmonizing the provisions of treaties across different jurisdictions will improve legal certainty and administrative efficiency. It would also prevent tax arbitrage, where sportspeople or companies exploit mismatches between treaties to minimize liability. Coordinated reforms of treaties would also be in line with the OECD's current work under the BEPS regime because the burden of taxation would better reflect where value creation takes place.

## **iii. Establishment of Global Guidelines on the Taxation of Image Rights**

Image rights lie at the very core of modern athlete endorsements, and yet, their taxation remains inconsistent in different countries, considering them as personal income, intellectual property, or capital gains. In the absence of such standardization, there are legal ambiguities and valuation difficulties, particularly when the same image is used both in physical and digital contexts.

To address this issue, the OECD could work in collaboration with WIPO to establish a global model framework on the manner in which image rights are taxed. The framework should recognize image rights as a distinct category of intellectual property and create uniform methods of valuation, considering market area, social media following, and the extent of endorsement. Differentiate between personal performance income and licensing of image rights; and establish standardized rules for cross-border royalty apportionment. Such guidelines would eliminate ambiguity, cut down disputes, and ensure fair taxation across borders. Importantly, this will also help protect athletes from double taxation, while ensuring that

governments receive their due share of revenue from e-commerce.

#### **iv. Taxation of NFTs and Virtual Assets**

This increasing intersection between sports, technology, and finance has given rise to new forms of digital monetization, such as NFTs and other virtual assets. Athletes increasingly create NFTs of their autographed photos, highlight clips, or metaverse collectibles and then trade them with people all over the world. How those transactions will be taxed is unclear and so far has been inconsistent.

The government should therefore adopt hybrid classification models that can ensure proper taxation. In such a model, Primary sales of NFTs-for example, when an athlete first sells a digital collectible-could be treated as capital income, reflecting the one-time creation and transfer of a unique asset. Secondary royalties paid out when the NFT is resold should be considered a form of intellectual property income, no different from music or film royalties. Furthermore, valuation, timing, and jurisdictional sourcing of the NFT income requires clear rules. This will help avoid tax evasion through crypto wallets and decentralized platforms while encouraging innovation in digital sports merchandising.

#### **v. Improved Transparency and Reporting Mechanisms**

The absence of transparent reporting is a flaw in tax compliance affecting cross-border endorsement. Most often, payments flow via agencies, digital platforms, and licensing firms that impose difficulties in tracing income streams by authorities.

One solution could be to extend the concept of a global reporting framework, similar to the CRS for financial accounts, to this area. Digital platforms, brand agencies, and sports organizations would report endorsement payments to athletes, including those routed through crypto currencies or virtual assets.

This would promote greater transparency, less evasion, and more cross-border cooperation among tax administrations. It would also contribute to constructing a complete world database on endorsement transactions, for better audit efficiencies and policy formulation.

#### **vi. Transfer Pricing Guidelines for Intellectual Property of Athletes**

With athletes increasingly commercializing their personal brands through endorsements,

sponsorships, and image rights, taxation authorities are finding it increasingly challenging to value and allocate income derived from the IP of athletes. Many athletes operate through PSCs or image rights entities, which again raises questions over how the income between the individual and corporate structures should be apportioned. Without such guidelines, such arrangements run the risk of inconsistent tax treatment or profit shifting to low-tax jurisdictions.

The scant guidance on transfer pricing for athlete-specific IP is a gap the OECD should fill. The OECD Transfer Pricing Guidelines, to date, have focused primarily on corporate intangibles, such as patents and trademarks, and provide limited guidance concerning human-centred intangibles like image rights, reputation, and social media influence. Clear standards would foster fairness, consistency, and compliance in cross-border taxation of athletes.

The guidelines should contain certain valuation metrics that capture the commercial reality of modern sports marketing. First, social media reach and engagement rate can be used to determine digital influence and audience value, considering that athletes with huge followings create high advertising impact. Second, performance-based indicators, like rankings, awards, and participation in tournaments, can reflect an athlete's competitive success and his corresponding worth in the market. Third, comparative market data based on similar endorsement contracts will serve as benchmarks against which arm's-length pricing can be checked.

By codifying these methodologies, the OECD would be equipping the tax authorities with the ability to properly value intra-group transactions, while giving transparency and predictability to athletes and agents. This would cut down disputes, discouraging tax avoidance and making sure income allocation reflects actual economic activity. Ultimately, such reforms would underpin global tax coherence and ensure equitable treatment in a rapidly changing digital sports economy.

#### **vii. Reinforced Cooperation Among Tax Authorities**

Since both countries usually claim the right to tax the same endorsement income, disputes concerning cross-border taxation arise. Though existing treaties currently provide for the MAP to resolve such disputes, these procedures are often slow and nontransparent.

In essence, to modernize this system, governments should develop, under OECD coordination, a digital dispute resolution platform that would facilitate faster communications, sharing of evidence, and resolution of tax disagreements related to athlete income.

Specifically, the enhancement of cooperation via digital MAP systems contributes to reducing administrative delays and building trust among tax jurisdictions, thereby offering more stability and predictability within the global tax environment.

### **viii. Education and Compliance Support for Athletes**

While structural and legal reforms are critical in bringing the taxation of cross-border athlete endorsements into the twenty-first century, their success is ultimately dependent upon awareness and participation by athletes themselves. Education and compliance support therefore constitute the bedrock of an effective tax governance framework. Where knowledge is lacking, even the best systems fail to fulfil their intended functions. Many athletes, especially in the early years of their careers, have no formal training in financial management or the law, let alone in the field of international taxation. This information gap leaves them vulnerable to everything from unintentional tax evasion to bad financial planning, all of which may impact their professional and personal lives for many years to come.

Today's professional athlete works in an increasingly complex economic environment, with income from salaries, sponsorships, image rights, performance bonuses, royalties, and now digital endorsements and NFTs. Each of these may be considered a different type of income, with different tax treatments possible depending on which country's laws are applied. For instance, income from an athlete's social media sponsorship may fall under the tax code in one country, while royalties from a digital collectible may fall under the laws of another country. Unless the residency rules, treaty provisions, and reporting requirements are well understood, an athlete might fail to comply with tax laws, suffer resultant penalties, face double taxation, or see his reputation damaged. The several high-profile cases regarding tax investigations of athletes in Spain, Italy, and the United Kingdom show how such ignorance of the law may lead to costly litigation and financial loss.

In this respect, structured education and compliance programs should be specifically tailored to the needs of athletes by close collaboration between governments, sports federations, and tax authorities. This should form part of the curricula for athlete development at sport

academies, professional leagues, and player associations. The aim should not be to provide mere technical rules but to bring about a culture of financial and legal literacy that will put athletes in a position to independently manage their economic activities in a responsible and proactive manner.

One possible way this might be achieved would be through a combination of workshops, online learning modules, and specific advisory sessions. Workshops might address basic tax principles, such as tax residency, double taxation treaties, and the difference between income from employment and from self-employment. These could be complemented with online modules, which would provide flexible, at-your-own-pace learning on topics such as image rights structuring, transfer pricing of personal service companies, and digital income reporting for endorsements derived through online platforms. Dedicated advisory support should be given to assist such athletes with bespoke compliance strategies, particularly for those with an international portfolio of endorsements. The content of such education programs should be extensive but accessible. Some of the areas that have importance for coverage include: Tax Residency and Double Taxation: Athletes regularly relocate for training, competition, and sponsorship commitments. Understanding how countries handle residency-whether by the number of days spent, centre of vital interests, or domicile-is not infrequently key to not finding oneself in conflict with more than one jurisdiction. The knowledge of DTAA allows the athletes to avoid paying double tax on the same income. Image Rights and Licensing Structures: Athletes need to understand the difference between income earned because of their performances and the revenue coming from the commercial use of their name, likeness, or brand. Structuring image rights through corporate entities can come with tax advantages but also compliance risks if not appropriately managed. Education in this area helps athletes maintain transparency while optimizing legitimate tax planning opportunities. Digital and Cross-Border Income Reporting: The rise of social media influencer-type arrangements, NFTs, and virtual events means that athletes are creating income across a multitude of jurisdictions and on a variety of digital platforms. The understanding of how to document and report such income, including in cryptocurrencies, is key to compliance in the digital economy. Financial Management and Best Practice: Apart from tax compliance, training on budgeting, saving, investing, and how to understand contracts should be imparted to all athletes. Financial discipline will protect them from exploitation and long-term instability once their sporting careers are over. Lastly, the institutionalization of such initiatives requires active involvement on the part of sports federations and player unions. They can collaborate with tax professionals,

academic institutions, and regulatory bodies in the development of standardized curricula and certification programs. This would improve compliance not only with their legal requirements but also enhance the level of confidence that athletes have in the regulatory system. From a policy perspective, governments could also create incentives for tax education participation through certification requirements or awareness credits linked to professional licensing. For example, national sports authorities might require that tax literacy training be obtained in order to meet requirements for international participation or to qualify for sponsorships. This would inculcate financial responsibility as integral to athletic professionalism. Essentially, education and compliance support programs are intended to change the status of athletes from being passive taxpayers to active participants in the economic processes at play. Equipped to understand and manage their fiscal responsibilities, programs can minimize incidents of non-compliance, increase voluntary reporting, and create better transparency in sports-related taxation. When the athletes are educated, compliant, and financially aware, it actually creates a very positive environment for increasing trust, fairness, and accountability throughout the ecosystem, including tax authorities, sponsors, and institutions in general.

## **Conclusion**

Taxation of cross-border athlete endorsements has become symbolic of the intersection between sports and commerce in today's global legal regimes. As athletes continue to become international brands, their incomes have increasingly cut across territorial boundaries, precipitating serious challenges to traditional tax doctrines anchored on physical performance and residency. The rapid development and pervasiveness of digital platforms, virtual economies, and decentralized assets call for an urgent reconsideration of how taxing powers are attributed and exercised.

Ambiguities in the law on performance, image rights, and nexus were highlighted in cases such as *Agassi v. Robinson* (2006), *Brooke v. Commissioner of Taxation* (2008), and *Goosen v. Commissioner* (2011). Though real progress has been achieved with the OECD's BEPS framework and the recent global efforts toward digital taxation, fragmentation of policy still prevails.

Ultimately, the taxation of athlete endorsements in an equitable and efficient way requires coordinated global reform. Countries have to balance the right to legitimately tax the income arising in their markets with the need to avoid double taxation and excessive compliance

burdens. It will be achieved by the harmonization of treaty interpretation, embracing digital nexus concepts, and integrating image rights and digital assets into mainstream tax policy.

In so doing, the international community will be able to create an open, equitable, and sustainable fiscal environment-one that is compatible with the economic realities of twenty-first-century sports and the digital economy underpinning them.

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