

TAX LAW WORKING SESSION
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Background. Case Study

- A famous football player (**Nessi da Silva**) has transferred his image rights to a company based in a tax haven. This company –“ Offshore Sports Ltd”– will manage the image rights of Nessi.
- The shares of the company were sold by a trust based in Luxemburg to the Da Silva Family, and these shares were to be qualified as “bearer shares”. For this reason only the trust knew the effective beneficiary of this transaction.
- “Offshore Sports Ltd” transferred the image rights to a company based in Switzerland “Washing Machine Sports Ltd”, so that this company could exploit advertising and commerce with them throughout the world. The shares of Washing Machine sports were owned by a trust company domiciled in Luxemburg too.

- The income obtained abroad by the Swiss company “Washing Machine Sports Ltd” is not taxable in Switzerland, so the income flow through this fiduciary company to the real owner of the image rights – “ Offshore Sports Ltd”–. This way Nessi da Silva could have elude the payment of Income Tax intentionally .
- The tax structure could have been set up with the intention to avoid the payment of taxes. It is a mere possibility that at any case should be proven by the corresponding tax authorities.



Nessi
Da Silva
Family



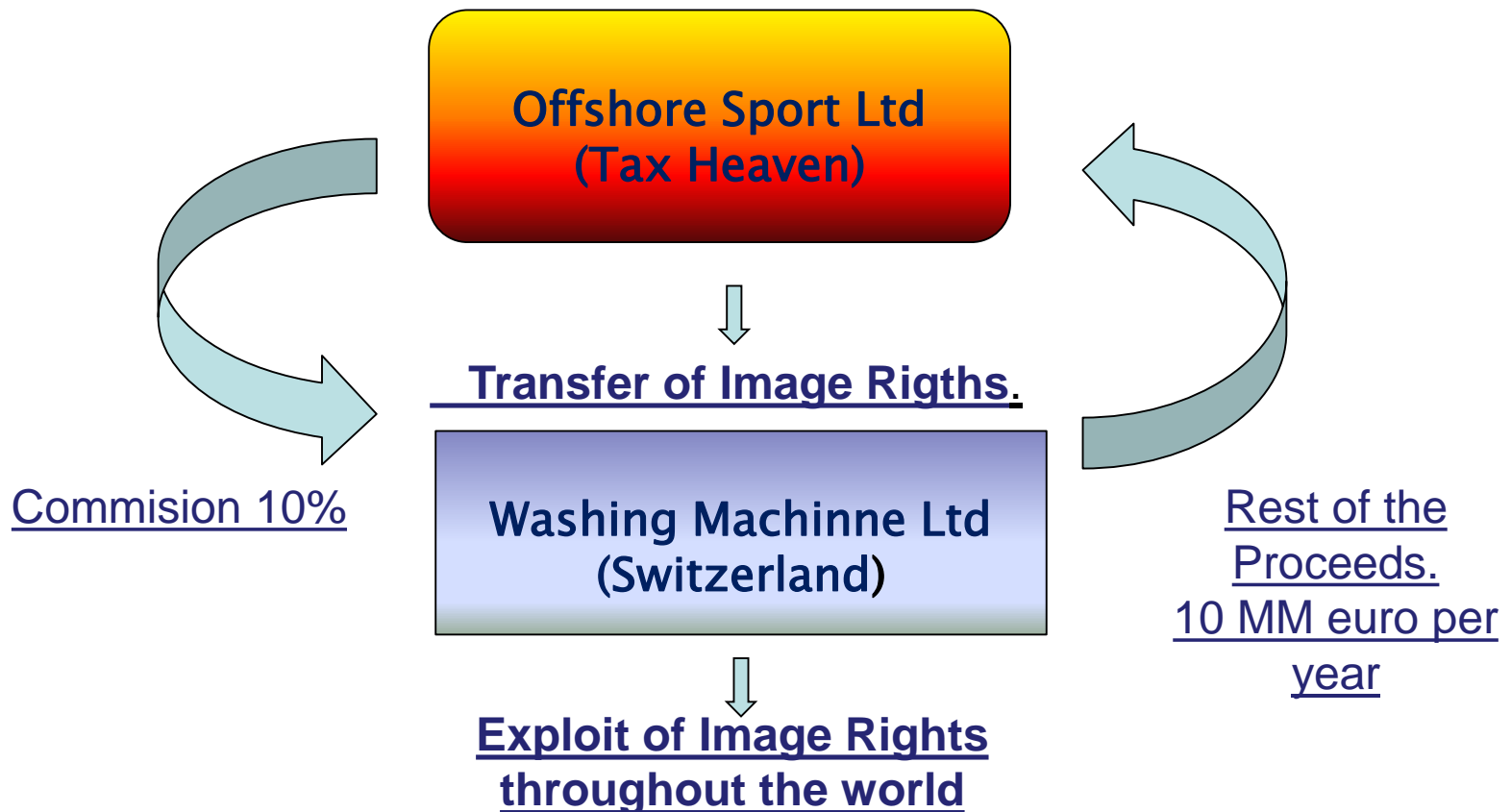
Acquisition
of “bearer
Shares”



Transfer of
Image Rights



Offshore Sport Ltd
(Tax Heaven)



QUESTION 1

Given the tax structure we have just explained do you consider it is worth to appeal a potential tax assessment before your national Tax Authorities after a tax audit? It will be a “long pilgrimage” for the tax payer?

Influence of popularity of the “football player” : positive/negative/neutral.

QUESTION 2

*For tax payers is quite important to measure the financial impact of the tax audit and the payments they need to make during the proceedings in case of appealing. In this regard, **it would be possible for the tax payer to postpone the payment until the end of the proceedings? Guarantees?***

Seizing of property by the Tax Authorities possible. Can the Tax Authorities attach properties located abroad?

QUESTION 3

Public prosecution

Unanimously all reporting countries have confirmed the possibility of the reporting of tax offenses to the public prosecutor. In Germany they are quite common. Can you explain the reason why?

Is there are a minimum threshold of tax debt to report to the public prosecutor - i.e. in Spain this amount is 120.000 Euros of the tax due for each concept (Corporate Tax, VAT, etc.) and for each fiscal year.

QUESTION 4

*Apart from the tax due, the tax authorities can normally impose **sanctions to taxpayers**. In relation to the case study we have presented can you give us an **estimation of the tax penalty to be imposed by the Tax Authorities? (Proceeds 10 MM Euros per year)***

May the tax penalty be reduced for prompt payment or conformity with the tax authorities decision?

*It is necessary **to have acted intentionally or with gross negligence** to open civil or criminal investigations?*

QUESTION 5

*In case of Germany and UK the “**the voluntarily regularization of the Tax Debt**” is possible. Can you explain the details of such regularization*

*“**Tax Amnesty**” Question opened to all panelists: There has been any special program opened to all taxpayers to regularize the tax situation – “Tax Amnesty”. Do you consider these programs can be seen as incentive for tax payers to not comply with their tax obligations in the future?*

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