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STUDIO LEGALE E TRIBUTARIO

TAX LAW

# THE MANAGEMENT OF ATHLETS' IMAGE RIGHTS

*EVOLUTION OF **PRACTICE** AND **NEW**  
**JURISPRUDENTIAL PERSPECTIVES***

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## 1. INTRODUCTION

For a long time, the management of the image rights of professional athletes and entertainers through the use of a corporate vehicle (known as a *Star Company*) has been scrutinized by both the Revenue Agency and the courts.

## 2. THE PREVIOUS CONTEXT

Although the Italian Revenue Agency has never issued a document prohibiting the adoption of a *Star Company*, it has consistently reaffirmed the principles where income deriving from the exploitation of image rights must be directly attributed to the artist or professional athlete. The key points of the Agency's perspective can be found, for instance, in the following documents:

- **Resolution n. 255/E/2009:** the tax authorities affirm that the transfer of the rights to exploit an image, which is directly attributable to the fame of the person and closely linked to the specific professional qualities of the artist, generates taxable income for the individual, which can be classified as self-employment income.
- **Tax ruling - Interpello n. 139/2021:** in this document, although with explicit reference to the transfer of the rights to exploit an artist's image in the context of a specific film production, it was reaffirmed that remuneration for image rights can be classified as income directly attributable to the individual, such as self-employment income.
- **Resolution n. 38/E/2023:** in the context of clarifications reserved for the application of the special regime for 'inbound' sports workers (regime degli "impatriati"), the separation between income from sports performance and image rights is implicitly considered applicable, opening up the idea that image management can be autonomous and have its own economic substance.

However, in hypothesising the application of the aforementioned preferential regime, it is also clarified that the portion of income recognised by the employer for the exploitation of image rights within the employment relationship could also benefit from the reduction in the tax base, since it was naturally attracted to the professional sphere of the sportsman within the specific relationship.

The Italian Supreme Court, ruling on disputes concerning the taxation of income deriving from the exploitation of the image rights of artists or professional sportsmen (in particular with regard to the application of self-employment withholding taxes), has taken generally the same position of the tax authorities:

- **Essential tax advantage:** it is believed that the sole or main purpose of setting up a Star Company may be to obtain undue tax advantage by subjecting income to IRES/IRAP taxation, with the consequent deductibility of costs and VAT, rather than IRPEF and related additional taxes.
- **Principle of fictitious interposition:** the company is often considered a mere formal screen with no real economic substance. As a result, the income is reclassified and taxed directly on the athlete or artist as self-employment income subject to IRPEF and related additional taxes.
- **Reversal of the burden of proof:** the prevailing approach places a very heavy burden of proof on the athlete/artist, who must demonstrate the existence of non-marginal economic reasons (e.g. brand protection or post-career management) that go beyond mere tax optimisation.

### **3. BEYOND THE NATURE OF INCOME: FICTITIOUS INTERPOSITION, REAL INTERPOSITION AND ABUSE OF RIGHTS**

Leaving aside for a moment the assessments regarding the nature of the income deriving from the management of the image rights of an artist or professional sportsman, it is worth dwelling on the principles underlying the objections raised by the Italian tax authorities - and tax authorities in general - in cases of image rights management through the use of a corporate veil.

#### ***Fictitious interposition***

In domestic tax legislation, the concept of fictitious interposition is codified in Article 37, paragraph 3, of Presidential Decree No. 600/1973, which establishes that 'in the event of an adjustment or official assessment, income appearing to be owned by other parties shall be attributed to the taxpayer when it is demonstrated, including on the basis of serious, precise and consistent presumptions, that the taxpayer is the actual owner through an intermediary'.

The scheme in this area is trilateral: a person knowingly directs one or more incomes to a third party who - unlawfully - takes part in the transaction.

#### ***Real interposition***

Real interposition is a concept distinct from fictitious interposition (which is a sham transaction): there is a real willingness on the part of the interposed party to enter into the contract with the third party and become the formal holder of the rights and obligations arising therefrom. The contractual arrangement is intentional and not simulated.

Although real interposition is a legitimate civil case, in the field of tax law, it may still be challenged by the Revenue Agency if the entire transaction (including any obligation to retransfer) is aimed at obtaining an undue tax advantage, thus falling under the rules on abuse of rights referred to in Article 10-bis of Law No. 212/2000..

Recent jurisprudence, notably Supreme Court Order No. 939/2025, has expanded the scope of Article 37, paragraph 3, of Presidential Decree 600/1973. The Court clarifies that tax authorities may disregard the corporate veil - regardless of whether the interposition is "fictitious" or "actual" - if the structure is primarily designed for tax avoidance purposes.

With regard to interposition and the specific distinction between fictitious and real interposition identified in Article 37, third paragraph, of Presidential Decree No. 600/1973, it is useful to refer to the position expressed by the Revenue Agency in its tax ruling - Interpello No. 282/2022, where it was considered that a foreign company (controlled and managed by the sportsman and his mother, with no consideration for image rights), even if real, was an intermediary entity and, consequently, that the income was to be attributed directly to the natural person shareholder, on the basis of the following elements:

- The lack of a management and organisational structure suitable for carrying out an economic activity.
- The absence of autonomous and significant functions specific to the company.
- The lack of clarity regarding the corporate purpose and investment activity.

### ***Abuse of rights***

The rules on abuse of rights are based on Article 10-bis of Law No. 212/2000, which states that '*one or more transactions without economic substance which, while formally complying with tax regulations, essentially result in undue tax advantages constitute an abuse of rights*'. It is therefore in the area of abuse of rights that the possible challenge for the purposes of real interposition by the tax authorities should be made.

#### 4. ITALIAN SUPREME COURT ORDER No. 28779/2025: THE ROLE OF TAX ADVANTAGE

Italian Supreme Court Order No. 28779/2025, filed on 31 October 2025, appears to mark a significant turning point in the management of athletes' image rights through the use of a corporate veil. The Order, relating to the case of former footballer Giorgio Chiellini, redefines the boundaries between legitimate tax planning and abuse of rights, contrasting with the historically restrictive approach of the Revenue Agency and part of the case law.

The decision moves into the territory of **abuse of rights** and therefore of real interposition, not fictitious interposition (even though reference is made to it in the Order). In this sense, the Court, examining the Agency's appeal against the second instance judgement in favour of the company (95% owned by the footballer and 5% by his brother), while recognising the presence of indicators that in the past would have led to a challenge (family composition, free transfer of rights, absence of a corporate structure), rejected the appeal.

The decisive point was the quantification of the tax advantage: the defence's expert report showed that the tax advantage derived from the corporate interposition was marginal - approximately 1% compared to direct taxation.

In doing so, the Court reaffirmed two fundamental principles:

1. No more automatic abuse: tax advantage are not sufficient to constitute abuse, but the artificiality of the transaction must be proven.
2. Essentiality of the undue advantage: abuse of rights only occurs in the presence of constructions created for the essential purpose of tax avoidance and lacking commercial and economic substance but producing undue tax advantages.

The 'Chiellini' Order implicitly recognised that the company, even if de facto 'light' in its structure (and created as an alternative to the use of a sports agent), had not been set up or used for the primary purpose of obtaining an undue tax advantage, given the marginal nature of the advantage obtained.

The decision reinforces the view that the choice of a more tax-efficient contractual arrangement does not in itself constitute tax avoidance. The Italian Supreme Court, rejecting the appeal by the Revenue Agency, therefore ruled that the burden of proof to demonstrate that the tax advantage is the sole reason for the transaction and that the company has no economic substance lies with the tax authorities, making it much more difficult to automatically reclassify income on the basis of mere presumptions of avoidance.

### **CONCLUSIONS**

Order No. 28779/2025 is a decisive step in proposing a new framework for this type of case, shifting the focus from the existence of the company itself to proof of the prevailing and undue tax advantage it produces. The mere fact of having opted for a corporate vehicle, even if family-owned and poorly structured, would therefore no longer seem sufficient to qualify the transaction as abusive. This approach recognises the taxpayer's freedom of choice in negotiations, provided that it is not distorted for the essential purpose of obtaining an illegitimate and significant tax benefit. In fact, this Order could be the first step in a new era for the management of image rights.