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## Taxation of Incomes of Athletes from Professional Practice of Sports under the Polish Tax Law

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Dominika Wróblewska<sup>1</sup>, Paweł Mańczyk<sup>2</sup>

**Abstract:**

**Purpose:** Authors' motivation to take up the subject of taxation of professional athletes comes from the Polish tax law which stipulates various manners of taxing incomes of professional athletes on their sports activity - depending on what source of income they are classified under. These sources may include an employment relationship, activity performed personally or being self-employed (conducting an economic activity). Professional practice of sports may entail high earnings, which is why taxation of these earnings may translate into significant differences between due tax resulting from the application of a specific method of taxation. The research problem emerging from the above-mentioned circumstance involves establishing which form of taxation will be optimal for athletes-taxpayers depending on their earnings.

**Design/Methodology/Approach:** To resolve the issue, relevant Polish regulations have been analysed by means of interpretation of applicable laws.

**Findings:** The research results allowed authors to formulate a thesis according to which the due tax will be lowest where the athlete obtains income from a sports activity as part of his or her economic activity.

**Practical Implications:** Impact on decisions of professional athletes in terms of legal optimisation of their personality under the tax law.

**Originality/value:** This matter has not been a subject of scholarly research to date. The research effects will allow such organization of athletes' activity that will make it possible for them to legally lower their taxes.

**Keywords:** Athletes, professional sports, economic activity, personal income.

**JEL classification:** H21, H24, K34.

**Paper Type:** Research study.

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<sup>1</sup>Master of Law, Teaching and Research assistant at the Institute of Legal Studies of the University of Szczecin, ORCID: 0000-0001-6805-0547,  
e-mail: [dominika.wroblewska@usz.edu.pl](mailto:dominika.wroblewska@usz.edu.pl);

<sup>2</sup>PhD, Assistant Professor at the Institute of Legal Studies of the University of Szczecin, ORCID: 0000-0002-4291-5466 e-mail: [pawel.manczyk@usz.edu.pl](mailto:pawel.manczyk@usz.edu.pl);

## **1. Introduction**

For this study, the definition of an athlete was narrowed down to a person who practices sports professionally under a sports contract entered with a Polish sports club and who receives remuneration for it. In order to define the expression “practising sports”, we first need to point out that in accordance with a dictionary meaning, sports is defined as activities and games intended to develop physical fitness and a strive to achieve best possible results in competitive activities, as well as to shape certain character features, such as endurance, loyalty or observance of rules.<sup>1</sup> A definition consistent with the dictionary meaning is present in the act of 25 June 2010 on sports<sup>2</sup> (hereinafter: Sports Act), which defines sports as all forms of physical activity which, by means of ad hoc or organized participation, contribute to the development or improvement of physical and mental fitness, to the development of social relations and to the achievement of sports results at all levels. Whereas “practice”, according to the dictionary of the Polish language, should be understood as “engaging in something”, “indulging in something” or “devoting oneself to something”<sup>3</sup>.

Therefore, practising sports should be understood as engaging in physical activity aimed at achieving best possible sports results in competitive activities at all levels by carrying out systematic training. Practising sports is voluntary and proceeds according to specific rules of competitions in the framework of an organized institutional system.<sup>4</sup> A precise specification of requirements that athletes’ activity must meet to minimise their tax burdens and social insurance expenses is an important subject since athletes’ earnings in Poland reach up to a few million zlotys a year<sup>5</sup>, thus with such high earnings any, even slight, tax optimisation may bring significant savings.

The subject-matter addressed in this paper assumes an international dimension due to numerous transfers of foreign athletes to Polish clubs. For instance, foreign footballers in Ekstraklasa (highest class of men’s football league in Poland) in the 2017/2018 season amounted to 44.49% of all players, in the 2019/2020 season this proportion was 42.63% and in the 2020/2021 season - 32.07%.<sup>6</sup> Admittedly, this percentage is decreasing every season, it remains at a high level.

The comments presented in the paper may, as a rule, be referred to athletes of any nationality (which is going to be discussed later) who practice team and individual sports professionally in Poland.

## **2. Sources of Athletes’ Incomes**

At the outset it needs to be pointed out that Article 3 of the act of 26 July 1991 on personal income tax<sup>7</sup> (hereinafter: PIT Act) introduces two categories of taxpayers - mostly based on the taxpayer’s residence criterion. The first category includes taxpayers who should pay PIT in Poland on all their incomes (regardless of the place of obtaining them), the second category includes taxpayers who should pay PIT in

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Poland only on incomes obtained in Poland. Taxpayers from the first category are called Polish tax residents, and their obligation of pay PIT in Poland is unlimited. In turn, taxpayers from the second category are subject to limited tax obligation in Poland. In the context of the presented classification of PIT payers in Poland, the nationality of the taxpayer or his place of residence is not relevant. Pursuant to Article 4a of the PIT Act, provisions on unlimited and limited tax obligation and on allocation of revenues in Poland are applied taking into account double taxation conventions. It needs to be emphasized that in the case of organizing international sports competition, international sports organizations sometimes interfere in tax systems of various countries.<sup>8</sup>

Pursuant to Article 3(1a) of the PIT Act, a resident of the Republic of Poland should be understood as a natural person who:

- has the centre of personal or economic interest (centre of interest) in the territory of the Republic of Poland<sup>9</sup> or
- stays in the territory of the Republic of Poland for over 183 days in a given tax year.

The meeting of these requirements makes a taxpayer a Polish tax resident. The literature often points out that it is the income's economic, not physical, relation with Poland that determines whether it was obtained in the territory of Poland<sup>10</sup>.

Polish law allows professional athletes to regulate their legal position in such a way, that incomes on the sports activity conducted by them can be classified under the following three sources of personal incomes:

- employment relationship (Article 12 PIT Act), or
- economic activity (Article 5a (6) in conjunction with Article 5b and in conjunction with Article 14 PIT Act), or
- activity performed in person (Article 13 PIT Act).<sup>11</sup>

The above enumeration results from the resolution of the Supreme Administrative Court in the panel of seven judges which formulated a closed catalogue of sources of revenues that athletes may obtain<sup>12</sup>. The SAC resolution, pursuant to Article 269 § 1 of the act of 30 August 2002 Law on proceedings before administrative courts<sup>13</sup> has a general binding force, and thus, each panel of judges of the administrative court is obliged to adjudicate the case in compliance with the position taken in the SAC resolution<sup>14</sup> – until this resolution is replaced by another SAC resolution presenting a different position in each matter. It should be noted that in the Czech Republic too, because of a judgement of its Supreme Administrative Court of 13 July 2017, no. 6 Afs 278/2016 three basic income tax regimes, similar to the Polish ones, were developed, where athletes can act as employees, as persons running an independent profession or as persons carrying on a trade.<sup>15</sup>

There is no legal definition of activity performed in person in the Polish law, therefore views of legal scholars and commentators need to be referred to, where it is pointed out that activity performed in person should be understood as all activities in which personalized and specialized features of the performing person are crucial to its performance<sup>16</sup>.

In the opinion of the authors, revenues from activity performed in person should include those revenues which an athlete will obtain from practising a sport, understood as engaging in exercises and games aimed at improving his or her psychophysical fitness and rivalry and competition. What is important - with no intention to make this activity a source of earning an income. It is not ruled out that such activity should not have an organized and permanent nature, because the aim of practising sports may involve e.g., a desire to compete. Revenues from activity performed in person result from facts (e.g., winning a marathon) and are paid on this basis, because there is no legal relationship between the athlete and the paying entity (e.g., organizer of a sports event) which would stipulate payment of remuneration for the athlete's consideration.

Incomes from practising sports include awards and bonuses obtained in connection with personal participation in sports rivalry, covering costs of food and accommodation during competitions and training, sports grants, and grants for members of the Olympic and national teams. As a rule, sums received by an athlete (grants) or benefits in kind (costs of food and accommodation during competitions and training) are taxed under general rules according to the tax scale.

Professional athletes enter sports contracts with clubs, which mainly involve representing the club's colours as players. The following in particular fall under this scope: participation in competitions or matches, training, training camps, advertising, marketing and promotional functions and events organized by the club.

Therefore, a professional sports contract may take the form of an employment contract entered into by the club with an athlete or an innominate civil law agreement for provision of sports services executed under the economic activity carried out by the athlete or outside of it. The will of the parties, the sports club's and the athlete's desire is decisive here<sup>17</sup>. Both the Sports Act and the act of 26 June 1974 the Labour Code<sup>18</sup> (hereinafter: LC) give the professional athlete the freedom to choose their civil law and employment status.<sup>19</sup>

The established line of decisions of the Supreme Court<sup>20</sup> features a view according to which a civil law agreement for the provision of sports services executed outside of the economic activity conducted by the athlete has, in general terms, the nature of a due diligence contract, because a professional athlete commits to provide services to maximise his sports results and thus to act for the benefit of the other party to this agreement (e.g., the sports club). Therefore, provisions on mandate should be applied to this contract accordingly (Article 750 of the act of 23 April 1964 the Civil Code<sup>21</sup>,

(hereinafter: CC). Revenues obtained from such a contract are revenues from activity performed in person.

For a given legal relationship to be recognized as an employment relationship, it must meet statutory premises, i.e., performance of work of a specified type under the supervision of an employer, in a place and at the times specified by him, in return for remuneration (Article 22 LC). The element of the employee's subordination is the most important feature differentiating the employment relationship from the sphere of civil law relationships.<sup>22</sup> Revenues from the employment relationship will include all benefits that the athlete-employee receives due to him being in the employment relationship, where these benefits are covered from the employer's resources.<sup>23</sup>

### **3. An Athlete as an Entity Carrying out an Economic Activity under the PIT Act**

The definition of economic activity under the PIT Act is composed of two kinds of prerequisites, i.e., positive prerequisites, which list necessary elements of this activity (Article 5a (6) PIT Act) and negative prerequisites, the occurrence of which rules out deeming a given activity as an economic activity (Article 5b (1) PIT Act). Pursuant to Article 5a (6) PIT Act, an economic activity means that:

- 1) it is a gainful activity,
- 2) it is conducted on one's own behalf irrespective of results,
- 3) it is conducted in an organised and continuous manner,
- 4) revenue from this activity is not attributed to other revenue from the sources specified in Article 10(1) PIT Act.

The gainful nature of economic activity means that the aim of undertaking it is to obtain profit. Profit, in turn, should be defined as a positive financial result, that is obtaining a surplus of revenues over deductible costs. Economic activity is conducted under the terms of market risk, thus there is a likelihood that it may bring a loss (revenue lower than costs). Therefore, the gainful nature of economic activity is not determined by the actual obtaining of profit, but by the mere intention to obtain it.<sup>24</sup>

The organized and continuous nature of the conducted activity is a crucial criterion for differentiating "economic activity" from other sources of revenue. The term "organized" may be examined in two aspects: formal organization and factual organization. Formal organization of economic activity consists of the choice of the organizational and legal form under which this activity will be conducted (in the case of athletes it will be sole proprietorship), submitting an application to the Central Registration and Information on Business (CEIDG) registry, which at the same time means reporting the activity to a tax office and the Social Insurance Institution, and also meeting other legal requirements resulting from undertaking a specific type of economic activity. The very entry or its absence in a relevant register does not determine that specific forms of activity will be deemed as economic activity in the

meaning of tax law. Conducting an economic activity (and obtaining revenues from this activity) is a certain objective state, independent from the taxpayer's subjective beliefs. In order to obtain revenues from this source it is not necessary for the taxpayer to have the status of an entrepreneur, this activity does not have to be registered in the manner stipulated in separate provisions on formal requirements that an economic operator should meet.<sup>25</sup> It is key that the taxpayer should demonstrate that he independently conducts an activity which is functionally and organizationally prepared to the implementation of the gain-related objective and that it is continuous<sup>26</sup>.

The term "continuity" of actions must be understood as their constancy (durability), repeatability, regularity, and stability. All these actions, if they are to meet the criteria of an economic activity, should have a professional character.<sup>27</sup>

With reference to the last of the criteria - if revenues from a specific activity are classified under revenues from an activity performed in person, they will not constitute revenues from an economic activity. This exclusion does not mean that when a given activity has features relevant to activity performed in person it cannot be deemed an economic activity. When a natural person obtains revenues from an activity that bears characteristics of an activity performed in person, then it may turn out that this activity also has features characteristic for economic activity and this is classified to the economic activity source.<sup>28</sup> Therefore, if, in a given case, practising a sport has features of an economic activity (due to having relevant qualifying attributes), the resulting revenues are revenues from economic activity.<sup>29</sup> Therefore, if the athlete's activity satisfies in a specific case the attributes of economic activity, taxing it as revenue from an activity performed in person, which in essence is a separate economic phenomenon, would be contrary to the principle of division of sources of revenues.<sup>30</sup>

At the same time, the legislator pointed out in Article 5b (1)) PIT Act that activities shall not be recognized as non-agricultural activity if the following conditions are jointly met:

- 1) liability to third parties for the results of these activities and their performance, excluding liability for committing torts, is incurred by the person who commissions the actions;
- 2) they are performed under supervision and in a place and at the times specified by the person commissioning these activities;
- 3) the person who performs these activities does not incur the economic risk related to the conducted activity.

If the negative prerequisites enumerated above are jointly met in the framework of the specified activity, then incomes (revenues) from this activity cannot be classified to the economic activity source.

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There have a lot of doubts concerning whether the activity of athletes practising team sports, e.g., football or volleyball, meets the above criteria. The SAC, in a judgement of 5 November 2015<sup>31</sup>, concluded that players who enter civil law contracts with sports clubs for the provision of sports services are at the club's disposal and are obliged to subordinate themselves to the club. Moreover, athletes do not bear any responsibility towards third parties on account of performing activities as part of the sports contract, and a win or a loss does not present any economic risk to the player, because the sports contract specifies a fixed remuneration. Responsibility towards third persons due to the performance of activities resulting from contracts executed with sports clubs is borne by the clubs, not the athletes.

The Court presented a view according to which the club is the entity which fully organizes the athlete's activity due to ensuring qualified coaching staff, appropriate training conditions, medical and rehabilitation care, practice equipment, clothing, living conditions during practice and tours or organization of the calendar of sporting events. According to the SAC, the above meant that negative prerequisites have been met in full, which makes it impossible to consider the revenues obtained by a player as revenues from economic activity.

Whereas in further SAC rulings which addressed matters of qualifying revenues of team players, the adjudicating panels came to completely different conclusions, pointing out that the activity of players who provide sports services for the benefit of a club does not meet the criteria enumerated in Article 5b (1)) PIT Act<sup>32</sup>. The SAC has pointed out numerously that a player is obliged to stay at the ready to provide a sports service throughout the entire period of the contract (he must stay fit and be ready on each day of the games) and that he responsible for this. Moreover, an athlete provides the service personally and in his own name because he acts under his own name and surname during a sporting competition, despite representing the team.

Additionally, the player's obligation to comply with disciplinary and anti-doping regulations or rules governing the player's status as well as rules and regulations applicable in the club does not mean that the athlete is not independent in carrying out an economic activity or that he answers to the club's management. In turn, the dates and places of tournaments are set by sports associations and are not dependent on sports clubs. This means that the negative prerequisite is not satisfied (performing activities under supervision and in a place and at the time set out by the party commissioning these activities), the occurrence of which rules out recognizing a given activity as economic activity. Moreover, in its judgement of 25 October 2017<sup>33</sup>, the SAC concluded rightly that a sports club is not responsible for activities performed by a professional athlete as part of representing the club's colours.

A player who practices a sport professionally independently provides services involving participation in sports competition in the colours of a given club because they affect his sports career and financial results. Poor play or a worse sports attitude may lead to the player not playing in the next match and his contract may be eventually

terminated. The player is not responsible for the club's sports results, but he is responsible for the way he performs sports services.

It needs to be concluded that athletes (both citizens of Poland and foreigners) who practise individual and team sports may receive revenues from sports contracts as part of their economic activity. Sports activity satisfies positive prerequisites necessary for it to be recognized as an economic activity - it is conducted for gain, in an organized and continuous manner.

It needs to be noticed that an athlete's carrying out of a sports economic activity is subject to essential limitations, because several sports federations which manage given disciplines strictly regulate the terms of employing/contracting players. The most frequent limitation involves a prohibition of providing work/services for more than one club in general or in games organized in each country.

#### **4. Differences in Individual Sources of Athletes' Revenues from a Sports Activity**

In practice, classifying revenues obtained by athletes under one of the sources enumerated above (employment relationship, activity performed in person or economic activity) mostly entails differences in establishing a tax base and a tax rate and determines other obligations.<sup>34</sup> Pursuant to Article 26 PIT Act, the tax base is income (revenues reduced by deductible costs) after deducting i.a., compulsory social insurance contributions.

##### **4.1 Tax Deductible Expenses**

Tax deductible expenses from the employment relationship depend on whether the taxpayer's (athlete's) permanent or temporary residence is located in a place where the workplace is located (football club) or outside of it and amount to PLN 250 or PLN 300 a month, respectively, that is not more than PLN 3,000 or PLN 3,500 a year.

In the case of an athlete who carries out an economic activity, tax deductible expenses are not limited in their amount, and his revenue may be reduced by all expenses incurred to earn the revenue or to maintain and secure the source of revenue, save for costs enumerated in Article 23 PIT Act. Therefore, tax costs are such expenses the incurring of which is in a cause-and-effect relationship with the economic activity and which were not enumerated by the legislator in the catalogue of costs not considered to be tax costs. Tax deductible expenses may include e.g., costs of physiotherapists, masseurs, dieticians, doctors, health care, coaches, sports equipment, swimming pool, gym, spa, medicine, sports clothing, manager, or accountant. Athletes often provide marketing services, which is why their tax costs may include costs of hairdressers, beauticians, make-up artists or stylists.<sup>35</sup>



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If an athlete is bound by a mandate contract with the club, then the costs are 20% of the revenue less social insurance contributions. If the taxpayer (athlete) proves that his tax-deductible expenses were higher than those resulting from the application of the 20% norm, then tax deductible expenses are assumed to be in the amount of costs truly incurred.

## **4.2 Social and Health Insurance Contributions**

Athletes who are bound with the club by an employment contract or a civil law agreement entered as part of their economic activity and outside of it are subject to compulsory old-age pension, disability pension, accident and health insurance. Athletes in an employment relationship are additionally subject to compulsory sickness insurance and those who carry out an economic activity or perform their duties under a mandate contract may pay towards this insurance voluntarily.

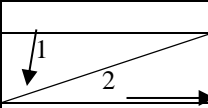
Pursuant to Article 15 of the act of 13 October 1998 on the social insurance system<sup>36</sup> (hereinafter: SIA), contributions to old-age pension insurance, disability pension insurance and sickness insurance have the form of a percentage rate and are identical for all insured. The basis of social insurance contributions of an employee and a mandatory is his gross remuneration, and for an economic operator - an amount declared each year, though not less than 60% of the projected average monthly remuneration.<sup>37</sup> A monthly basis for voluntary sickness insurance for an economic operator could not exceed PLN 13,067.50 a month in 2020. The basis for old-age pension and disability pension contributions in a given tax (calendar) year for employees, mandatories and economic operators cannot be higher than the amount equivalent to thirty-fold the projected average monthly remuneration in the national economy for a given calendar year (Article 19(1) SIA). The maximum basis contributions for old-age pension and disability insurance in 2020 is PLN 156,810 and the projected average remuneration adopted to establish it is PLN 5,227<sup>38</sup>.

An athlete who starts an economic activity may enjoy a “start-up relief”, that is exemption from paying social insurance contributions for the period of 6 months from starting the operation. Only health insurance must be paid. Moreover, an athlete can, for the next 24 months, enjoy preferential social insurance contributions which he pays on a basis constituting 30% of the minimum remuneration (in 2020 - PLN 780), and the health insurance contribution is deducted from its standard basis (which will be discussed later).

Pursuant to Article 79 of the act of 27 August 2004 on publicly financed health care services<sup>39</sup>, health insurance contributions are 9% of the contribution's basis. The contributions basis for employees and mandatories is the amount of remuneration reduced by voluntary social insurance contributions, and for an economic operator - the amount declared each year, not less than 75% of the average monthly remuneration in the enterprises sector in the fourth quarter of the preceding year, including profit-sharing distributions.<sup>40</sup>

The table below presents the amounts (percentage of the contributions basis) for social and health insurance contributions paid as part of an economic activity carried out by an athlete and in the case of him entering an employment contract or a mandate contract.

**Table 1.** *Social and health insurance contributions for employees, mandatories, and economic operators*

	Employment contract/Mandate contract		Economic activity
	employee/mandatory (athlete)	employer/mandator (sports club)	
Old-age pension insurance	9.76%	9.76%	19.52%
Disability pension insurance	1.5%	6.5%	8%
Sickness insurance	2.45%	0%	2.45%
Accidents insurance	0%	1.67%	1.67%
Health insurance	9%	0%	9%

**Note:** 1 type of insurance, 2 form of conducting a sports activity.

**Source:** Authors' own compilation.

Health insurance contributions are deducted from the amount of tax (thus, differently than social insurance contributions which are deducted from income), however, not in full, but in part which is 7.75% of the contribution's basis.

## 5. Forms of Income Taxation

As a rule, incomes received by an athlete for participating in competitions, training, training camps, advertising, marketing and promotional functions and events organized by the club are taxed with a tax calculated under general rules according to the tax scale. It is irrelevant whether payment of remuneration is based on an employment contract, mandate contract or a civil law agreement for the provision of sports services entered as part of an economic activity carried out by the athlete. Pursuant to Article 27 PIT Act, tax under general rules is paid on the tax base in accordance with the scale in Table 2.

The tax-reducing amount is not higher than PLN 1,360 for a tax base of no more than PLN 8,000. It decreases parallel to the increase of the tax base and amounts to PLN 0 for a base exceeding PLN 127,000. For an athlete who operates an economic activity, there is a choice of an alternative form of taxation (Article 30c PIT Act), which applies a flat tax rate of 19% of the tax base which is his income (certain deductions from income which may be deducted when calculating tax under general rules are not afforded in this form of taxation).

**Table 2.** Tax scale of the Polish PIT (taxation under general rules)

Tax base		The tax amounts to	
above	up to		
	PLN 85,528	17%	
PLN 85,528		PLN 14,539.76 +32% of any surplus over PLN 85,528	minus the tax- reducing amount

*Source:* Article 27 PIT Act.

Table 3 below presents the difference in due PIT on selected amounts of income obtained by an economic operator who applies general rules of taxations and the 19% flat rate tax.

**Table 3.** Comparison of taxation under general rules with the 19% flat tax (amounts in PLN)

Tax base	Tax under general rules	Flat tax	Benefit of applying flat tax
50,000	7,975	9,500	-1,525
85,528	14,015	16,250	-2,235
<b>101,200</b>	<b>19,228</b>	<b>19,228</b>	<b>0</b>
150,000	35,171	28,500	6,671
200,000	51,171	38,000	13,171
500,000	147,171	95,000	52,171
1,000,000	307,171	190,000	117,171
2,000,000	627,171	380,000	247,171
5,000,000	1,587,171	950,000	637,171
10,000,000	3,187,171	1,900,000	1,287,171

*Source:* Authors' own compilation.

With a tax base of PLN 85,528 it is additionally profitable to apply general taxation rules, which derives from the fact that the 17% rate applies to this amount, whereas the flat tax rate is 19%. As the tax base increases above PLN 85,528, the advantage of applying general taxation rules decreases since a 32% rate is applicable for income exceeding PLN 85,528, whereas the flat tax rate is still 19%. A cut-off tax base is PLN 101,200. For this amount the PIT is the same (PLN 19,228), regardless of the taxation method applied. Above PLN 101,200, a tax benefit of applying the 19% flat tax rate is gradually noticeable. For example, with a tax base of PLN 1,000,000 the tax benefit is PLN 117,171, while at PLN 10,000,000 - as much as PLN 1,287,171.

## 6. Advantages of Individual Forms of Taxation

A comparison of taxation of an athlete representing a sports club based on a civil law agreement entered as part of his economic activity and an employment contract where the athlete's monthly income amount to PLN 100,000 is presented below.

**Table 4.** *Employment contract - athlete's costs for a monthly gross remuneration of PLN 100,000 (amounts in PLN)*

Gross	Insurance				Tax base	Income tax	Net
	old-age pension	disability pension	sickness insurance	health insurance			
1,200,000	15,305	2,352	29,400	103,765	1,149,943	265,801	783,377

*Source: Authors' own compilation.*

**Table 5.** *Employment contract - sports club's costs for a monthly gross remuneration of PLN 100,000 (amounts in PLN)*

Gross	Insurance			Contributions to the Labour Fund and Guaranteed Employee Benefits Fund	Employer's costs	Total cost of remuneration
	old-age pension	disability pension	accidents insurance			
1,200,000	15,305	10,193	20,040	30,600	76,137	1,276,137

*Source: Authors' own compilation.*

For athletes who are under the age of 26, they may enjoy an income tax exemption when the sports contract takes the form of an employment contract or a mandate contract. However, the limit of revenues (that is the amount before being reduced by tax deductible expenses and social and health insurance contributions) enjoying this exemption is PLN 85,528. The surplus above the exemption amount is taxed under general rules.

Where the sports contract has the form of an employment contract and the athlete's gross remuneration is PLN 100,000 a month, the real cost that the sports club incurs a month is PLN 106,345. An athlete who obtains revenue from the club as part of his economic activity, covers the total of social insurance contributions from his own funds and the sports club does not incur any additional costs above the remuneration paid to the athlete.

Therefore, to illustrate reliably the savings involved in entering sports contracts as part of an economic activity, it needs to be assumed that the amount paid to the athlete by the sports club is PLN 106,345 every month. At the same time, it needs to be remembered that the athlete may deduct various expenses from the income as part of his economic activity referred to above which are his tax costs. Let us assume that they are PLN 10,000 a month.

As has already been mentioned, in the first 6 months of operating an economic activity, he does not have to pay social insurance contributions, but only health insurance contributions. Athletes also have the option to apply the 19% flat rate taxation.

**Table 6.** Economic activity - sports club's costs for a gross monthly remuneration of PLN 106,345 (amounts in PLN)

Gross	Tax costs	Insurance				Income tax	Net
		old-age pension	disability pension	sickness insurance	health insurance		
1,276,137	120,000	0	0	0	4,348	218,840	932,949

*Source:* Authors' own compilation.

If the athlete does not opt for flat rate taxation, his incomes will be taxed under general rules and his tax will be PLN 136,903 higher.  $PLN 14,539.76 + (PLN 1,151,789 - PLN 85,528) \times 32\% = PLN 355,743$ . When applying the social insurance contributions relief, the calculation for the athlete will be as follows:

**Table 7.** Economic activity - athlete's costs for a monthly gross remuneration of PLN 106,345 (amounts in PLN)

Gross	Tax costs	Insurance				Income tax	Net
		old-age pension	disability pension	accidents insurance	health insurance		
1,276,137	120,000	1,827	749	156	4,348	215,400	938,008

*Source:* Authors' own compilation.

As results from the above calculations, with the sports club paying the same amounts, the difference in the athlete's profit may be as much as PLN 154,630.70 in favour of taxing his incomes from an economic activity with the flat tax.

## 7. Summary

The research shows that to minimise the athlete's personal income tax burden and his social and health insurance contributions burden, the sports contract involving representation of the colours of a given club by participation in competitions or marketing activity should be entered into in the form of a civil law agreement as part of the athlete's economic activity. This results primarily from the option of choosing the taxation form between general rules of taxation and flat tax, application of tax-deductible expenses in an unlimited amount when calculating the tax base and a broad catalogue of these expenses.

Another argument to the advantage of economic activity is the opportunity of a waiver from paying social insurance contributions for 6 months after starting the economic activity and the possibility to pay contributions at preferential rates for the next 24 months, as well as the possibility of not paying health insurance contributions.

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**Notes:**

1. See, *Dubisz (2003a)*.
2. Consolidated text: *Dz. U. (Journal of Laws) of 2019 item 1468 as amended*.
3. See, *Dubisz (2003b)*.
4. See, [www.prawosportowe.pl/a/pojecie-sportu-wyczynowego-w-prawie-unii-europejskiej/11/11/2020](http://www.prawosportowe.pl/a/pojecie-sportu-wyczynowego-w-prawie-unii-europejskiej/11/11/2020).
5. Average exchange rate for EUR provided by the National Bank of Poland on 10 November 2020: EUR 1 = PLN 4.51 [www.nbp.pl](http://www.nbp.pl) 11/11/2020.
6. See, [www.transfermarkt.pl/ekstraklasa/startseite/wettbewerb/PLI](http://www.transfermarkt.pl/ekstraklasa/startseite/wettbewerb/PLI) 11/11/2020.
7. Consolidated text: *Dz. U. (Journal of Laws) of 2020 item 1426 as amended*.
8. See, *Boghean, Zubas (2018)*.
9. As rightly pointed by the Supreme Administrative Court (hereinafter: SAC) in its judgement of 28 September 2018, ref. no. II FSK 2653/16 "When assessing in which country the centre of personal and economic interests of a natural person is, one needs to primarily take into account the personal and economic relations of the natural person with a given country which include family and social ties, employment, political or cultural activity and any other activity, place of performing gainful activity, sources of incomes, investment, immovable and movable property, credits, bank accounts as well as the place from which the person manages his assets, etc."
10. See, *Kotlarek, Napierała (2015)*.
11. Resolution of the SAC in the panel of seven judges of 22 June 2015, ref. no. II FPS 1/15.
12. The view that this catalogue is closed was presented in other court rulings. Cf. judgement of the Voivodship Administrative Court in Łódź of 15 November 2017, ref. no. I SA/Łd 808/17.
13. Consolidated text: *Dz. U. (Journal of Laws) of 2019 item 2325 as amended*.

14. See, *Dauter, Gruszczyński, Kabat, Niezgódka-Medek* (2005).
15. See, *Vybíral* (2018).
16. See, *Modzelewski, Bielawny, Słomka* (2020).
17. *Judgement the Supreme Court of 29 June 2010, ref. no. I PK 44/10.*
18. *Consolidated text: Dz. U. (Journal of Laws) of 2020 item 1320 as amended.*
19. See, *Kubot* (2015).
20. *Judgement the Supreme Court of 16 February 2006, ref. no. IV CK 380/2005.*
21. *Consolidated text: Dz. U. (Journal of Laws) of 2020 item 1740 as amended.*
22. See, *Modzelewski, Bielawny, Słomka* (2020).
23. See, *Marciniuk* (2017).
24. *SAC judgement of 26 September 2008, ref. no. II FSK 789/07*
25. *SAC judgement of 21 August 2014, ref. no. II FSK 2096/12.*
26. *Judgement the Supreme Court of 7 February 2017, ref. no. II FSK 4025/14.*
27. *SAC judgement of 5 December 2019, ref. no. II FSK 110/18.*
28. See, *Modzelewski, Bielawny, Słomka* (2020).
29. *Opinion presented in the general interpretation of the Minister of Finance of 22 May 2014, ref. no. DD2/033/30/KBF/14/RD-47426.*
30. See, *Brzeziński* (2015).
31. *SAC judgement of 5 November 2015, ref. no. II FSK 955/14.*
32. *SAC judgement of 14 February 2018, ref. no.: II FSK 186/16, II FSK 184/16, II FSK 183/16; SAC judgement of 13 April 2018, ref. no.: II FSK 1100/16.*
33. *SAC judgement of 25 October 2017, ref. no. II FSK 80/16.*
34. See, *Jamroży* (2014).
35. *Opinion presented in the individual interpretation of the Director of the National Fiscal Information on 29 November 2019, ref. no. 0113-KDIPT2-3.4011.704.2019.1.SJ to the benefit an MMA fighter.*
36. *Consolidated text: Dz. U. (Journal of Laws) of 2020 item 266.*
37. *The amount of projected average remuneration in 2020 was PLN 5,227, thus a minimum base for contributions to old-age pension insurance and disability pension insurance of economic operators in 2020 was PLN 3,136.20.*
38. *Announcement of the Minister of Family, Labour and Social Policy of 28 November 2019 on the amount of limitation of the annual basis for contributions to old-age pension insurance and disability pension insurance in 2020 and the amount of projected annual remuneration adopted to establish it.*
39. *Consolidated text: Dz. U. (Journal of Laws) of 2020 item 1398.*
40. *This amount is announced by the President of Statistics Poland in the Official Gazette of the Republic of Poland "Monitor Polski". A minimum base for health insurance contributions for economic operators in 2020 was PLN 4,026.*