



**TAX CONSIDERATIONS
FOR
ATHLETES & ENTERTAINERS**

**AMERICAN BAR ASSOCIATION FORUM ON THE
ENTERTAINMENT AND SPORTS INDUSTRIES**

PRESENTS

**FROM HOLLYWOOD TO SOUTH BEACH:
THE FIRST ANNUAL INTERNATIONAL LEGAL SYMPOSIUM**

APRIL 22-24, 2010

**FONTAINEBLEAU MIAMI BEACH
4401 COLLINS AVENUE
MIAMI BEACH, FLORIDA**

**Howard J. Wiener, Esq.
Howard J. Wiener & Associates, P.L.
2161 Palm Beach Lakes Blvd., Suite 102A
West Palm Beach, FL 33409
(561) 686-2220
hjwiener@gmail.com**

HOWARD WIENER
ATTORNEY AT LAW

TAX PLANNING CONSIDERATIONS FOR ATHLETES AND ENTERTAINERS

By

Howard J. Wiener, JD, LL.M. Taxation
Howard J. Wiener & Associates, P.L.
2161 Palm Beach Lakes Boulevard, Suite 102A
West Palm Beach, FL 33409
(561) 686-2220
hjwiener@gmail.com

I. Introduction.

1. Types of Compensation. Actors, producers, directors, and others who participate in motion picture or television films sometimes receive contingent compensation measured by net profits or gross receipts of those motion pictures or television films (commonly known as “participations”). In addition, these individuals are sometimes entitled to fixed future payments (commonly known as “deferments”), and under various guild agreements, these people may be entitled to receive additional payments upon future exhibitions of the film (commonly known as “residuals”).

In the case of a recording Artist, the recording contract will normally provide that the Artist is entitled to royalties measured by future record sales. From a tax perspective, the word “royalty” means compensation for the license of an intangible asset. In the case of a recording artist, though, there is no intangible asset being licensed, but rather the Artist is simply agreeing to provide recording services.

All these “assets” (whether designated as participations, deferments, residuals, or royalties) are different ways of denoting deferred compensation which the Entertainer is entitled to receive as consideration for services rendered.

In the case of authors, Athletes and songwriters, the situation becomes more complete. An author’s, Athletes’ or songwriter’s efforts give rise to a property right – copyrights, the sale or license of which are protected under the copyright laws (and which may give rise to favorable capital gains treatment) – as distinguished from a mere contractual right to receive compensation for personal services (ordinary income).

In addition to entertainers being highly compensated for their services, **Athletes** also derive income from bonuses, awards, interest-free loans, gift products, personal appearances, endorsements, and/or royalties from merchandising and licensing. As with any taxpayer, an Athlete's gross income includes all income from whatever source derived unless it is specifically excluded. IRC Code Section 61.

Tax planning for Athletes and Entertainers generally involves deferral of income and maximizing the deductibility of expenses. The following is an overview of various forms of compensation and planning ideas to minimize an Athletes’ and Entertainer’s taxes.

