



**Wood** LLP

# Tax Alert



## **Robert W. Wood**

THE TAX LAWYER

TAXES 8/03/2014

## Lionel Messi Tax Evasion Case (Secrecy = Willfulness) Impacts U.S. & U.K. Taxpayers Too

Apart from its star power, the criminal tax case in Spain against Argentinian athlete [Lionel Messi](#) of Spanish team FC Barca is worth watching. Messi now earns \$50 million a year, including incentives, making him [#4](#) on Forbes' list of the 100 highly paid athletes. In the recent World Cup, he was awarded a top player Golden [Ball](#). But he still faces tax evasion charges that could send him to jail.

Taxes have become a worldwide spectator sport, and the word of the decade is *transparency*. Few could have predicted the Armageddon that changed Swiss banking. In 2009, the IRS and Department of Justice sliced through the Gordian knot of bank secrecy, netting account holder names and a \$780 million penalty from UBS. Many other Swiss banks have fallen into line. A few closed their doors, and all of the rest now say that Swiss bank secrecy really didn't mean what you thought it meant.

Credit Suisse recently paid a [\\$2.6 Billion Fine, and Avoided Death in U.S.](#), copping to a U.S. felony tax charge, an astounding hit. Now, as Lionel Messi and his father face charges over what is being touted as a multi-million euro tax evasion scheme, Spanish prosecutors are focused on secrecy. They say the scheme relied upon hiding the names of the real owners of companies registered in the UK, Switzerland, Uruguay and Belize.



(Photo credit: ANESGOB)

Americans are particularly unable to hide anywhere for any reason. [FATCA](#)—the Foreign Account Tax Compliance Act—is America’s global tax law. It requires foreign banks to reveal American accounts holding over \$50,000. The world has agreed, even Russian and China, and names are being revealed to the IRS.

Already in U.S. administrative cases with the IRS and tax prosecutions, trusts and companies are under fire. The IRS and DOJ use these common devices to enhance the willfulness that may be present. In many ways, the cover-up is worse than the crime. In some cases, such layers can make innocent activity [‘Willful’ Triggering IRS Penalties Or Jail](#).

A key element in Messi’s case seems to be the clandestine nature of the tiered arrangement. The deal was structured to keep his name hidden. The Spanish prosecutor alleges that money was routed through U.K. and Swiss companies and then to companies in Uruguay and Belize. The reason? To make it opaque.

Mr. Messi denies the allegations, but is understandably saying that his agent—er actually his *former* agent—did the deals without his knowledge. His father surely also had a larger role in the tax maneuvers than did the footballer.

All of this comes at a time when secrecy itself is under attack. The UK is moving to make company ownership entirely transparent. If current proposals pass into law, that may be replicated elsewhere. The topic of company ownership transparency is being discussed in Brussels too.

Nominee ownership used to be common. Nominees are straw-men listed as owners or directors of a company, but who are acting on behalf of someone else. As secrecy itself as come under attack, this once extremely common device is now more likely to be viewed as a problem that triggers others.

All indications are that Lionel Messi and his father have tried to settle their tax case and to pay the money and move on. But the message coming from Spanish authorities has been a stern one. They have been accused of evading 4.2 million euros in tax on earnings from sponsors. Details appear in the [formal complaint](#) filed by the prosecutor.

Whatever happens in Spain, secrecy and willfulness may be linked like never before.

*Contact me at [Wood@WoodLLP.com](mailto:Wood@WoodLLP.com). This discussion is not intended as legal advice, and cannot be relied upon for any purpose without the services of a qualified professional.*