

FASB decided that within the alternative quantitative disclosure, a lessee should report on the expense associated with short-term leases, and that those leases should be defined as lasting between 30 days and one year.

To reduce the amount of disclosures required from lessees, the staff recommended eliminating the proposed requirement for a lessee to disclose a maturity analysis of its lease liabilities.

Zeyher said that because FASB agreed to include the alternative quantitative disclosure requirement in the final standard, the maturity analysis would provide redundant information to financial statement users that wouldn't justify the costs associated with preparing both disclosures.

Board members appreciated the staff's attempt to reduce the disclosure requirements imposed on lessees, but they ultimately decided to retain the maturity analysis disclosure for a lessee's lease liabilities. However, the board agreed to eliminate the proposed requirement for a lessee to disclose a maturity analysis of commitments for non-lease components associated with a lease.

**Board members appreciated the staff's attempt to reduce the disclosure requirements imposed on lessees, but they ultimately decided to retain the maturity analysis disclosure for a lessee's lease liabilities.**

Although FASB decided to modify several of the proposed quantitative disclosure requirements regarding lessee accounting, the board voted 4 to 3 to retain the qualitative disclosures that would be required from lessees under the proposed guidance in the 2013 exposure draft.

According to Zeyher, several financial statement users indicated that the proposed qualitative disclosures would provide useful information, particularly the requirements for lessees to disclose information about the basis on which variable lease payments are determined and about the existence of renewal options.

Because FASB and the IASB had previously decided to pursue separate models for lessee accounting, the boards made separate decisions regarding lessee disclosure requirements that will be included in the final rulemaking issued under U.S. generally accepted accounting principles and international financial reporting standards. (Prior coverage: *Tax Notes*, June 23, 2014, p. 1398.) ■

## TAX ANALYSTS EXCLUSIVE

## Conversations: Jeremy Spector

*Interviewed by David van den Berg —  
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Jeremy Spector is a different sports fan than most — and with good reason.

Spector, 44, an attorney with Covington & Burling LLP in Washington, is the lead tax counsel for Major League Baseball, the National Football League, the National Basketball Association, the National Hockey League, Major League Soccer, the United States Olympic Committee, and more.

Whether it's television contracts, collective bargaining agreements between leagues and their players, tax-exempt status for leagues, or something else, whenever there's a tax element to an off-the-field issue in sports, Spector is involved. He praised IRS representatives he's worked with, including one with whom he was in a contentious negotiation when he suggested they take a "yoga break."

Spector, a native of Philadelphia, has in his office a Philadelphia Eagles jersey with the number 3 on it, a reference to March. The jersey is a gift from a client whom Spector successfully represented in changing the end of its tax year to March 31. "To tax lawyers, it's kind of funny. To everyone else, not so much," Spector said.

Spector met with Tax Analysts' David van den Berg in his firm's Washington offices to talk about his career and tax issues in sports.

**Tax Analysts:** How did you come to represent all five of the country's major male professional sports leagues? Have you represented all of them for the same amount of time?

**Jeremy Spector:** I came by it mostly by luck and good fortune. I've represented a lot of them for different periods of time.

I started at the firm as a summer associate in 1996, and then became a permanent associate in 1998. I spent the early years in the tax practice really

working with two partners — one, Reeves Westbrook, who is still here and has a thriving controversy practice. He taught me a lot about the tax controversy world. The other was Andy Friedman.

Andy really developed the sports tax practice at Covington. There had not been anything like it, I think, at any firm until he did it. It was both a tax controversy and a tax planning practice.

The main clients were the NFL, the NHL, and the NBA. After I started working with Andy, we added Major League Baseball, Fenway Sports Group (owners of the Boston Red Sox, Liverpool FC in England, New England Sports Network, and more), the United States Tennis Association, and the USOC. And then Andy retired, probably about five years ago now. We have since added Major League Soccer, NASCAR, and the Ultimate Fighting Championship. At any given time, I'm probably representing a dozen different teams in the various leagues. Over the last decade there's probably been a total — I haven't counted — maybe 50.

**TA:** Tell me about how Andy influenced you and what you learned from him.

**Spector:** Andy started out as my mentor, then became my partner, and ultimately my friend. He has this great ability to combine technical legal analysis with a strong business sense, and then just practical judgment. I think that's unusual in lawyers.

It was helpful for me to watch someone who could give legal advice not in a vacuum, not with his head buried in a book of regs, but who really understood that you're trying to help a business run in a tax-efficient way. In addition to all that, frankly, we had a lot of fun doing it.

I have a colleague, Jeff White, who came up through the Covington associate ranks with me, and he continues to do a lot of the sports tax work. He also learned a lot from Andy. It was a great experience, the two of us coming up under him. Jeff remains a key part of the sports tax practice.

**TA:** You see a side of professional sports that most people don't. If you came into this as a fan, are you as much of one now?

**Spector:** I came in a fan and I remain a fan.

I watch games like a fan and have great times doing that, like anyone else would. In addition, what will happen is that I'll watch with my lawyer hat on. We'll be watching a game and we'll see a player make a terrific play, win the game, save the game, whatever it may be, and everyone gets excited. I'll think about his player contract that was on my desk two months ago when I was analyzing his deferred compensation package and the period over which his signing bonus is going to be amortized. All of a sudden that's running through my head while we're cheering the player.

**TA:** You do some non-sports work as well. How much time do you spend on sports and non-sports tasks?

**Spector:** Historically it's been 85 to 90 percent sports. I like doing the non-sports work. First, because I just like those clients — they're good people to work with. And the issues are different — they're interesting.

Covington has a strong digital economy practice. That's where a lot of the Amazon work comes from, and that's where the Yahoo work came from before that. Sotheby's is also a long-term firm client.

**TA:** Can you recall an instance when some combination or all of the major leagues you represent took different positions on the same issue? How did you navigate that? How likely is that to happen, and how do you balance the concerns?

**Spector:** It doesn't happen that often, actually. I can't think of an instance in which I've had leagues taking or asking me to take a conflicting position. The reason for that is probably twofold. One is, if you're in the tax planning world, you're looking forward. You're trying to figure out "How am I going to be creative and structure this league's or this team's business in the most creative way?" That's really more of an internal decision to that league and so it shouldn't, at least directly, affect the other leagues.

The other half of what I do is tax controversy work. We're fighting against the IRS or a state tax authority. Everybody's aligned there.

**TA:** Is there one memorable transaction you've been involved with?

**Spector:** Under prior law, there was a significant audit issue — and by significant I mean both the frequency with which the IRS brought it up and its value. It could be hundreds of millions of dollars for any one team. It was an issue that stretched across all teams and potentially all leagues — how to allocate the purchase price for a team and how to amortize that purchase price.

I and others represented the industry in front of the IRS and negotiated a global settlement for how all those transactions could be treated without the taxpayers having to go through a long and extended and rancorous audit. The great news for me was that it required a lot of creativity and a lot of negotiation with the government.

I think the settlement was a terrific deal for the clients if they wanted to take it, and the best news was that they didn't have to take it. In other words, there was a safe harbor provision, but they weren't bound by it.

**TA:** How important is tax treatment, and how important are tax considerations in the purchase of a baseball, NBA, NFL, or hockey franchise? To what

extent, if at all, does tax treatment play a role in the teams appreciating as assets?

**Spector:** Every now and then you see a statement in the popular press that says owners buy teams as a tax play or that teams can be used as a tax shelter. I think those are just flat-out wrong. I don't think that anybody gets into this business to save on taxes.

There used to be provisions in the code that were specific to sports teams, having to do with how you would amortize assets held by a team. Some people thought that those were more favorable than rules that apply to other industries. Frankly, some people thought that they were less favorable. In any event, they have been repealed. Amortization of sports team assets is really the same as amortization of intangibles in most other businesses.

What I try to do with clients, both at the league level and at the team level, is just think about how to structure their entities at a macro level and their operations at a micro level in a tax-efficient manner.

**TA:** On the subject of team sales, you've been involved both in sales of teams by individual owners and sales of teams by leagues. How do the tax aspects and implications of those sales differ, if at all?

**Spector:** I don't think they differ all that much because when you're representing a seller, whether it's a league, as in the sale of the Arizona Coyotes or Montreal Expos, or an individual owner, I think the considerations are the same. From a tax perspective, the considerations are similar to those you would have in the sale of any large business.

What's different about the sports team acquisitions, and the place where I think I add value, is that you have to know the business. You have to understand how to negotiate the terms of the deal and how to draft the tax provisions of the agreement in the context of understanding how the business works.

I think the most different sale transaction I worked on was probably when John Henry sold the Florida Marlins and purchased the Boston Red Sox. John had separate corporate counsel for that transaction, but we were his special tax counsel. We structured both of those transactions together as a like-kind exchange.

You think of a like-kind exchange as swapping one office building for another. What we were doing is essentially swapping a baseball team for a baseball team, and a stadium for a stadium, and a set of player contracts for a different set of player contracts. Although it was an unusual transaction in the sense that no one had ever done it before, and it was on a scale much larger than most like-kind exchanges, it actually fit very comfortably into the statutory regime.

**TA:** How has that transaction shaped work that you've done since?

**Spector:** Well, two things happened. One is it was the first large project that I worked on for John Henry, and it led to my representing the Red Sox and Fenway Sports Group on broader matters, and we are now their lead outside tax counsel. In that sense, it was a terrific opportunity for me to get introduced to them. They are a bunch of fun, thoughtful, really smart people.

The other thing that it did is it allowed me to work on like-kind exchanges that are not in the sports industry. That's the only sports one that I've done. We'll get calls into the tax group from non-sports clients who say they want to do a like-kind exchange — "Do you have anyone there who has any expertise?" I'm able to say that I've done a few of those.

**TA:** You represented numerous teams in audits. What are the most common reasons a team might be audited?

**Spector:** I have never been able to figure out why the IRS opens audits of some entities and not of others. If the question is what issues come up once they are audited, it's funny, they run the gamut. They can be really small-dollar issues — at least relatively small-dollar — on things like complimentary tickets, meals and lodging expenses, fringe benefits, that kind of thing.

There you have business practices that are, if not unique, at least frequently found in the sports industry.

Then you can have large-dollar items. You can have signing bonuses and other kinds of bonuses that are paid in all the leagues of millions and millions of dollars apiece. If you multiply that by however many players on a team times however many years under audit, all of a sudden those dollars escalate.

The really big-dollar issues are things like stadium financing. When you have, for example, a stadium that's built with both public money and private money, how is that transaction taxed? How did the club treat it on its tax return, and how does the IRS think it should be treated?

**TA:** What trends have you seen in IRS audit and enforcement activity regarding teams and leagues? How has the agency's aggressiveness and the issues it pays most attention to changed?

**Spector:** It's been a really interesting progression over the last, I would say, 15 years.

In the late 1990s, the IRS appointed a field agent to act as the technical adviser for the sports industry. He developed, to his credit, a significant body of factual knowledge about how sports teams and leagues worked, and about the tax issues all that might present.



What happened in the late '90s and the early 2000s is that he would pull out a cornucopia of issues and suggest to other agents that they raise those on audit. Because it was really the first time the IRS had focused on sports audits, it was the first time that we from the industry side had a chance to respond to all those issues.

Ultimately what happened in those initial years — call it maybe '99 to '05, '07 — is that we were able to show the IRS how a lot of those issues that it was raising were not issues that we thought had merit. And it agreed. There are a few issues it would raise that we would say, "OK, we see, we're going to change our practice or our reporting on that." There are issues that to this day remain ones where we disagree.

I think there are now fewer issues specific to the sports industry that get raised on audit. They tend to be issues where there is disagreement, because the issues on which there would otherwise be agreement have already been noted in the IRS file as ones where the taxpayer is correct.

**TA:** Is there one of those issues you can highlight or one that's the poster child for that?

**Spector:** The IRS was challenging the provision of what they now call local lodging to team players. That is what happens when a team puts its players up, say at a hotel, in their home city. There was a question about whether the value of that lodging should be treated as a taxable fringe benefit on which the team had to withhold tax, given that the player was not away from home.

We fought that issue on several audits and convinced the IRS that notwithstanding that the player was in his home city, there was a strong basis in the code, regs, and case law that allowed the value of that lodging to be excluded from the player's income and therefore not subject to withholding.

We thought that was the end of the story, but it turned out there was a second chapter. Treasury was considering revising its regs on lodging. So what was an audit issue for me became a legislative issue, almost a government affairs issue. We sub-

mitted a comment letter to Treasury that suggested that when it implemented these new regs, it address this local lodging issue. Treasury accepted that comment.

If you now look at the regs that came out within the last year on this issue, there is actually an example in the regs about a sports team offering local lodging to its players and other employees.

**TA:** Would tax issues regarding a London-based NFL team be any different from those for Canadian teams for baseball, basketball, and hockey?

**Spector:** In general, I don't think so. There's one exception that I can think of, which is that there is a provision in the U.S.-Canada tax treaty that talks about professional sports teams that play under a schedule with games going on back and forth across the border. I don't believe that that provision exists in the U.S.-U.K. treaty, nor frankly would you expect it to.

I think that's a small point. The larger point is that in some ways, whether you've got a team that is based in Canada or in the U.K. or anywhere else around the world, you've got similar questions that come up with respect to any inbound transaction, right? What's the obligation of a non-U.S. entity to pay U.S. taxes?

What we layer onto that is "What do you do about players that go back and forth? What do you do about licensing activity and sponsorship activity that crosses borders? What do you do about being in a partnership with U.S.-based entities?" That kind of thing.

**TA:** Can you talk about common threads that have come up in the stadium deals you've been involved with since the financial crisis and recession?

**Spector:** The stadium work is a big part of what I do. The biggest tax issue with stadiums that I've worked on is personal seat licenses. Right now I'm working with a lot of clubs that are building or have recently built their own stadiums, and part of the funding for those stadiums involved the sale of personal seat licenses. ■