

PRO Sports Act (S. 1524)

Q&A

The Properly Reducing Overexemptions for Sports Act (PRO Sports Act) would exclude major professional sports leagues from qualifying as tax-exempt organizations.

Q: Which organizations will this bill affect?

A: This bill will likely impact:

- PGA Tour
- National Football League (NFL)
- National Hockey League (NHL)
- Ladies Professional Golf Association (LPGA)
- Professional Golfers Association (PGA, distinct from PGA Tour)
- National Hot Rod Association (drag-racing)
- ATP Tour (professional tennis)
- WTA Tour (professional tennis)
- US Tennis Association
- Professional Rodeo Cowboys Association

Q: Has the PRO Sports Act been scored?

A: Yes. The Joint Committee on Taxation estimates this tax loophole is worth about \$10 million a year to major pro sports leagues, and \$109 million over a decade.

Q: Will the PRO Sports Act hurt the U.S. Olympic Committee (USOC)?

A: No. The USOC is a charitable 501(c)(3) non-profit organization. This bill only focuses on professional sports leagues registered under 501(c)(6).

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Summary

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BACKGROUND SUMMARY

- Organizations can register as 501(c)(6) tax-exempt organizations if they are industry or trade associations promoting the benefit of one or more lines of business, such as logging or realty.
- Major professional sports leagues qualify by stating their purpose is to help their respective sports at large, though they devote most of their activities to promoting their specific brands.
- Currently, a number of professional sports leagues have central offices registered as 501(c)(6) tax-exempt organizations. These include the PGA Tour, National Football League (NFL), National Hockey League (NHL), and Ladies Professional Golf Association (LPGA).
- Several of these leagues channel their primary revenue through the tax-exempt organization, and almost all of this revenue is tax-free.
- Other leagues manage their revenue through teams and subsidiaries, and the league office is essentially paid to manage league operations for teams and players.
- No major professional sports league deserves to have a tax exemption.

WHAT THE BILL WOULD DO

- **Remove** statutory language from the tax code allowing “professional football leagues” to enjoy the same tax-exempt status as industry trade associations.
- **Amend** the tax code to prohibit any professional sports organization substantially involved in running league affairs from qualifying as a 501(c)(6) tax-exempt trade association, typically used by industry organizations or chambers of commerce.
- **Define** a major professional sports league as an organization with gross receipts over \$10 million and involved with fostering sports competitions.

Q: Has a league ever switched its tax status before?

A: Yes. Major League Baseball was registered as a 501(c)(6) tax-exempt organization for years, but switched to a limited liability corporation in 2008. The league, which is organized similarly to the NFL and NHL, reported the move was tax-neutral.

Q: Wouldn't the NFL be doubled taxed if it had to switch its tax status?

A: No. Under the current revenue structure of the NFL, teams and certain NFL subsidiaries (like NFL Properties, which houses NFL intellectual property) collect revenue. Revenue is split among the teams, and the teams pay membership dues to the NFL league office.

Some may argue the league office should pay taxes on collected income because it is performing a service for the teams. Even if one does not make that argument, membership dues paid by teams are likely already deducted from federal income taxes currently. If the league office were restructured as for-profit, teams would still likely deduct such expenses from their tax returns.

Q: Why should pro sports leagues have to switch tax status when other trade organizations do not?

A: The entire 501(c)(6) sector should be thoroughly examined to understand how businesses may be taking advantage of the tax code in ways unintended by Congress. Professional sports leagues are not traditional trade associations the same way the US Chamber of Commerce is. Leagues claim their main purpose is to promote their respective sports, but most of their activities are dedicated to specific brands that help a limited number of pro players.

Q: Will this impact the teaching certification or charitable activities of a professional sports league?

A: No. Most leagues already have their own 501(c)(3) charitable organizations through which they donate to communities. Leagues and associations will also be able to spin off any teaching certifications operations into separate 501(c)(6) organizations focused

on these activities, since they are not related to fostering professional sports competitions.

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Background

The PRO Sports Act would exclude major professional sports leagues from qualifying as tax-exempt organizations.

This bill would revise the tax code to prohibit professional sports leagues making over \$10,000,000 a year from qualifying as non-profit organizations.

The tax code's overly complex rules and loopholes allow corporations and other organizations to take advantage of provisions hardly intended for them. Major sports leagues are no exception.

Several professional sports leagues are taking advantage of section 501(c)(6) of the tax code, which is intended for business associations trying to promote certain industries, without benefiting any specific business within. The U.S. Chamber of Commerce, for example, is organized as a tax-exempt 501(c)(6) organization aiming to promote the success of business across the country. Another 501(c)(6) organization, the Intermountain Logging Conference, promotes the logging industry generally in states such as Idaho and Washington. According to the Internal Revenue Service (IRS), businesses that conduct for-profit operations on a cooperative basis should not qualify for tax-exempt treatment under this section of the tax code.¹

Organizations that qualify under this section of the tax code generally pay no taxes on their income.² They are often exempt from numerous state and local taxes as well.

Yet, the IRS has allowed the National Football League (NFL), National Hockey League (NHL), PGA Tour, and Ladies Professional Golf Association (LPGA) – among others – to qualify for tax-exempt status under section 501(c)(6). On their tax returns, each business claims to promote the success of their respective sports -- football, ice hockey, and professional golf -- but these leagues are clearly organized for profit to promote their specific brands.

Using the special tax status is not new. For example, the NFL has been registered as a tax-exempt, non-profit trade association since 1942.³ In 1966, amid antitrust fears surrounding the merger of the NFL with the American Football League, Congress voted to add a statutory tax exemption for "professional football leagues" to the tax code.⁴ While this language is still in law, major professional football leagues will continue to benefit from a tax code susceptible to accounting tactics. This bill would permanently remove this language from current law.

Granting tax-exempt status to major professional sports leagues costs taxpayers millions of dollars every year.

Taxpayers should no longer be on the hook to exempt major professional sports leagues with gross receipts over \$10 million per year from federal income taxes. By allowing these organizations to continue as tax-exempt agencies, the IRS is forcing taxpayers to subsidize the operations of the multibillion sports industry that is wildly successful on its own.

The Joint Committee on Taxation has estimated this tax break alone is worth about \$10 million every year, and \$109 million over the next decade.⁵

Collectively with their subsidiaries, the NFL, NHL, PGA Tour, and LPGA generate an estimated \$13 billion in annual revenue. The tax-exempt offices of these leagues earned \$184.3 million, \$89.1 million, \$1.4 billion, and \$73.6 million in 2010, respectively.^{6 7 8} For each league office, this revenue was largely free of federal income taxes. NFL and NHL league office revenue generally comes from dues paid by teams, while PGA Tour's revenue is largely derived from selling television and sponsorship rights.

Leagues may argue they represent and protect the true spirit and integrity of their respective sports. While they certainly do fulfill that purpose to a degree, these leagues are unmistakably organized to promote their specific brands, not simply each sport's industry as a whole. By eliminating tax exemption, taxpayers would be protecting the spirit of current law.

Precedent exists for leagues to switch from non-profit to for-profit status.

History shows leagues can switch tax status without major interruptions to operations or financial well-being.

One professional sports league, Major League Baseball (MLB), opted to switch the tax status of its central office from a nonprofit 501(c)(6) organization to a for-profit limited liability corporation after 2007.⁹ The league acknowledged the status change was in part motivated by a desire to avoid having to disclose the salaries of its key employees.¹⁰

Similar to those in the NHL and NFL, MLB teams contribute member dues to the league office. The tax status change was reportedly a tax-neutral move for the league.¹¹

The disclosure change that prompted the MLB to switch its status dates back several years. The IRS added the rule in 2008 to existing reporting rules to increase transparency on how nonprofit entities have been spending their tax-free funds. Nonprofit trade associations and other 501(c)(6) organizations are now required to submit publicly available tax forms every year that

detail the compensation of their key employees, such as CEOs and directors. Many trade associations and the National Football League fought the disclosure rule by lobbying Congress to override the rule.¹²

Any charitable activities of these leagues can still be executed through traditional charitable nonprofits.

The PGA Tour, LPGA, NFL, and NHL among others are all involved in charitable activities to promote their sports and community well-being through grants to individual organizations, such as foundations and little leagues. Their desire to give back to the communities is laudable.

If major professional sports leagues were to lose their tax-exempt status, they would still be able to continue their charitable activities by managing 501(c)(3) organizations. In fact, the NFL, NHL, and PGA Tour, already have their own foundations (NFL Foundation, NHL Foundation, and PGA Tour Charities) through which they award grants and donate services.

Several business organizations have not been allowed to keep nonprofit status under 501(c)(6), even though their activities are similar in many ways to those of major pro sports leagues.

In the past fifty years and dozens of instances, the IRS and the Tax Court have ruled certain organizations that classified themselves as 501(c)(6) nonprofits were not actually meeting the statutory criteria for tax-exemption. Several of these cases appear similar to the situation of major professional sports leagues, which have substantial involvement in organizing events to benefit a select number of teams and players rather than the sport-specific industries as whole. While organizations can claim to have broad purposes to help an industry, a closer look at their activities reveals the opposite.

Here are several examples in which certain organizations were deemed to be non-exempt from taxes because their activities were generally geared toward helping their members and not an industry:

- In 1953, for example, the Tax Court held the American Automobile Association (commonly known as AAA, or “Triple A”) did not qualify as nonprofit because “[n]otwithstanding its broad purposes to improve highway traffic safety and to educate the public in traffic safety, its principal activities were determined to consist of securing benefits and performing particular services for members.”¹³

- In 1970, the Tax Court ruled “a trade association of manufacturers whose principal activity is the promotion of its members’ products under the association’s registered trademark does not qualify for exemption.”¹⁴
- In 1963, the Tax Court ruled “a real estate board whose primary purpose and activity is the operation of a multiple listing service for its members” does not qualify as a tax exempt organization.¹⁵

While each league has unique circumstances, these examples certainly raise doubt about whether any professional sports league, organized for the benefit of its member teams or players, should qualify as a 501(c)(6) nonprofit organization.

Team contributions to 501(c)(6) pro sports leagues are tax-deductible as business expenses.

Americans are familiar with the deductibility of their contributions to charitable organizations. Little may they know the dues that professional sports teams pay to their leagues may also be tax-deductible, for a different reason.

Since they can be considered business or trade expenses, teams are likely deducting their league dues from their individual tax returns.¹⁶ Membership dues to registered trade associations can be deducted from federal taxes. This provision in the tax code amounts to a subsidy for teams who already make hundreds of millions of dollars.

This bill does not affect the tax status of teaching-focused organizations and the US Olympic Committee.

Because this bill only focuses on major professional sports organizations substantially involved in fostering professional sports competition, any association focused on teaching or certifications will not be affected. For example, a tennis association may seek to establish an industry standard for its professional tennis teachers. The same situation may arise in golf. An organization not substantially involved in managing sporting events for professional athletes will not be affected by the bill.

Similarly, the U.S. Olympic Committee, which does foster professional sports competition, will not be affected by the bill because it is classified as a 501(c)(3) charitable organization. The PRO Sports Act only impacts 501(c)(6)-registered leagues.

Tax-exempt professional sports leagues are paying CEOs multimillion-dollar – several times larger than what the average trade association CEO makes – while receiving subsidies from taxpayers.

Even as millions of Americans are having difficulty finding jobs just to put food on the table, many major professional sports leagues have enjoyed economic success that is unmatched. The leaders and major professionals in these leagues make millions of dollars every year. What a private company chooses to pay its executives is its own decision. In these cases, however, leagues prove themselves to be more than typical trade and industry associations. Consider that the average compensation for CEOs of the ten largest trade associations is less than \$700,000.¹⁷

For example, PGA Tour players and sponsors have raked in millions while taxpayers effectively subsidized the tour's operations. In 2010, the tour paid its five of its most successful golfers a combined \$37.4 million.¹⁸ That same year, sponsors – who pay to have their brands advertised at tournaments and on television broadcasts – received \$44 million of the tour's \$1.4 billion revenue.¹⁹ Tim Finchem, PGA Tour's commissioner, received a handsome sum of \$3.7 million in 2010 from the nonprofit PGA Tour itself and \$1.5 million from its related organizations.²⁰

Similarly, football – now considered by many to be America's pastime – continues to be a major draw for Americans and a bonanza for the NFL, undoubtedly a brand and not an industry. During the 2010 regular season, a record 208 million unique viewers tuned in to watch an NFL game on television.²¹ Of the NFL's 32 member teams, almost half are valued at over \$1 billion.²² All of the teams are among the top 50 most expensive sports teams in the world. The NFL's brand is thriving.

In 2010, the NFL's commissioner, Roger Goddell, earned about \$12 million.²³ The next highest salary of a traditional nonprofit CEO is \$3.4 million.²⁴ The league paid five other officials a total of \$19.2 million in just one year.²⁵ Besides managing and coordinating football operations, the NFL league office also administers bank accounts on behalf of teams, whose transactions in these accounts amounted to over \$6.5 billion in 2010.²⁶

The negative impact of the tax exemption on state and local governments may be significant.

State and local governments often use the IRS classifications to determine the tax-status of organizations doing business in their jurisdictions. Because of their registered tax-exempt professional sports leagues, often do not have to pay state and local taxes. These jurisdictions may also end up subsidizing the lucrative world of professional sports as a result.

Indianapolis, which hosted the Super Bowl in 2012, reportedly lost revenue in part because the NFL was able to use its tax status to avoid paying hotel, restaurant, fuel, auto rental, and admissions taxes for its employees.²⁷ In its official tax documents, the Indiana Department of Revenue defined the NFL as “a not-for-profit trade association known as the National Football League organized under Section 501(c)(6) of the Internal Revenue Code and the 32 member clubs of such association.”²⁸

Localities have also exempted the NFL from sales taxes on Super Bowl tickets. For example, the state of Texas exempted Super Bowl XLV tickets from state sales taxes because the NFL qualified as a nonprofit association, according to official state documents.²⁹ The league also told Santa Clara, California, the city would have to exempt tickets from taxes if the Super Bowl were held there.³⁰ Super Bowl tickets are not cheap. To get a seat to Super Bowl XLVII, fans had to pay face value at \$850, \$950, or \$1,250, depending on the location.³¹ For the 73,000 available tickets sold, lost sales tax revenue may amount to several million dollars.

Cities and states are able to lure companies with any number of tax breaks, but a federally designated tax-exempt status should have no place in that conversation for major professional sports.

One sports journalist highlighted the irony of the NFL seeking exemption from city lodging taxes, since football stadiums are often funded by these taxes:

In Atlanta’s case, a hotel-motel tax was used to build the Georgia Dome and would also be used to help finance the proposed new open-air stadium demanded by the Falcons. If Georgia tax law is like that of many states, the NFL and its employees would be exempted from paying the tax that everyone else must pay to subsidize stadiums built for a highly profitable industry.³²

Congress needs to reexamine the “nonprofit” sector entirely.

Over 1.5 million entities are registered as tax-exempt under section 501(c) of the Internal Revenue Code. At the end of 2002, the sector’s reported assets were over \$2.5 trillion.³³ Americans have demonstrated their support of charitable organizations such as the American Red Cross and the American Cancer Society. As these organizations fulfill philanthropic causes, they generally justify their tax-exempt status.

However, the proliferation of so many entities under the tax code means thousands of organizations are taking advantage of taxpayers’ generous spirit. Sometimes, drawing a distinction between the for-profit and non-profit sectors is difficult, raising significant concern.

Major professional sports league provide one example, but countless more exist. Soda bottlers, hospitals, and some foundations all offer instances of questionable nonprofit missions, perks, and special deals.³⁴

It is critical Congress perform strong oversight of the sector -- tightening the requirements to qualify if needed -- and ensure the Internal Revenue Service is using available tools to judge whether organizations truly merit tax-exempt status.

¹ "IRC 501(c)(6) Organizations," Internal Revenue Service, 2003 EO CPE Text. Available at <http://www.irs.gov/pub/irs-tege/eotopick03.pdf>.

² Some types of income are not exempt from federal income taxes, such as "unrelated business income."

³ Peter, Josh. "Critics question league's tax-exempt activities," *New Orleans Times-Picayune*, July 14, 2002, available at <http://archive.apsportseditors.org/contest/2002/writing/over250/over250.enterprise.fourth3.html>.

⁴ Delaney, Andrew. "Tacking a Sack: The NFL and its Undeserved Tax-Exempt Status," *Social Sciences Research Network*, May 11, 2010. Available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1605281, accessed October 15, 2012.

⁵ Letter from the Joint Committee on Taxation to Senator Tom Coburn, May 15, 2013.

⁶ National Football League 2010 Form 990 filed with the Internal Revenue Service.

⁷ National Hockey League 2010 Form 990 filed with the Internal Revenue Service.

⁸ PGA Tour 2010 Form 990 filed with the Internal Revenue Service.

⁹ Fisher, Eric. "Selig's pay climbs past \$18 million," *Sports Business Daily*, February 2, 2009, [http://www.sportsbusinessdaily.com/Journal/Issues/2009/02/20090202/This-Weeks-News/Seligs-Pay-Climbs-Past-\\$18-Million.aspx](http://www.sportsbusinessdaily.com/Journal/Issues/2009/02/20090202/This-Weeks-News/Seligs-Pay-Climbs-Past-$18-Million.aspx).

¹⁰ Fisher, Eric. "Selig's pay climbs past \$18 million," *Sports Business Daily*, February 2, 2009, [http://www.sportsbusinessdaily.com/Journal/Issues/2009/02/20090202/This-Weeks-News/Seligs-Pay-Climbs-Past-\\$18-Million.aspx](http://www.sportsbusinessdaily.com/Journal/Issues/2009/02/20090202/This-Weeks-News/Seligs-Pay-Climbs-Past-$18-Million.aspx).

¹¹ Fisher, Eric. "Selig's pay climbs past \$18 million," *Sports Business Daily*, February 2, 2009, [http://www.sportsbusinessdaily.com/Journal/Issues/2009/02/20090202/This-Weeks-News/Seligs-Pay-Climbs-Past-\\$18-Million.aspx](http://www.sportsbusinessdaily.com/Journal/Issues/2009/02/20090202/This-Weeks-News/Seligs-Pay-Climbs-Past-$18-Million.aspx).

¹² Vaughan, Martin. "NFL, Trade Groups Fight Pay Disclosures," *Wall Street Journal*, August 25, 2008, <http://online.wsj.com/article/SB121962888650267971.html>.

¹³ Internal Revenue Manual, 7.25.6.12, "Digest of Published Rulings," *Internal Revenue Service*.

¹⁴ Internal Revenue Manual, 7.25.6.12, "Digest of Published Rulings," *Internal Revenue Service*.

¹⁵ "IRC 501(c)(6) Organizations," Internal Revenue Service, 2003 EO CPE Text, page K-27. Available at <http://www.irs.gov/pub/irs-tege/eotopick03.pdf>.

¹⁶ Erika Lunder, "Deductibility of Corporate Campaign Expenditures," Congressional Research Service, August 22, 2012.

¹⁷ Cohen, Rick. "In Santa Clara, Tax-Exempt NFL Looks Like a For-Profit Business," Nonprofit Quarterly blog, January 18, 2013, <http://www.nonprofitquarterly.org/policysocial-context/21662-in-santa-clara-tax-exempt-nfl-looks-like-a-business.html#.UQFlidInGE>.

¹⁸ PGA Tour 2010 Form 990 filed with the Internal Revenue Service.

¹⁹ PGA Tour 2010 Form 990 filed with the Internal Revenue Service.

²⁰ PGA Tour 2010 Form 990 filed with the Internal Revenue Service.

²¹ Seidman, Robert. "NFL 2010 TV Recap: Most-Viewed Season EVER," TV by the Numbers, January 13, 2011, <http://tvbythenumbers.zap2it.com/2011/01/13/nfl-2010-tv-recap-most-viewed-season-ever/78564/>.

²² Badenhausen, Kurt. "The World's 50 Most Valuable Sports Teams," *Forbes.com*, July 16, 2012, <http://www.forbes.com/sites/kurtbadenhausen/2012/07/16/manchester-united-tops-the-worlds-50-most-valuable-sports-teams/>, accessed September 10, 2012.

²³ National Football League 2010 Form 990 filed with the Internal Revenue Service.

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