

Legal Sidebar

Questions Raised About NFL's Tax-Exempt Status

9/17/2014

With all the attention the National Football League (NFL) has received regarding its handling of several high-profile controversies, [questions have arisen](#) about the League's tax status. The NFL is exempt from federal income taxes as an organization described in [§ 501\(c\)\(6\) of the Internal Revenue Code](#). (Note this applies only to the League—the teams are not tax-exempt).

Section 501(c)(6) describes:

Business leagues, chambers of commerce, real-estate boards, boards of trade, or professional football leagues (whether or not administering a pension fund for football players), not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

A [Treasury regulation](#) explains that "a business league is an association of persons having some common business interest, the purpose of which is to promote such common interest and not to engage in a regular business of a kind ordinarily carried on for profit."

People sometimes think the statutory language specifically referencing professional football leagues means that other sports leagues cannot qualify for § 501(c)(6) status. This is not true. Professional sports leagues are designed to promote the common business interests of their team members and thus clearly fall within the definition of business league. This means, assuming they meet the other criteria—such as being operated on a not-for-profit basis and not violating the prohibition against private inurement—they can qualify for § 501(c)(6) status.

Other examples of sports leagues with § 501(c)(6) status include the National Hockey League (NHL) and the Professional Golfers' Association (PGA). However, not all leagues have § 501(c)(6) status. The National Basketball Association (NBA) has always operated as a for-profit venture and thus never had tax-exempt status. Major League Baseball (MLB) had § 501(c)(6) status, but decided to give it up in 2009. MLB reportedly described this as a "[tax-neutral decision](#)," and it has been suggested that a motivating factor in giving up its status was [no longer having to publicly disclose its finances](#) through the Form 990, which is the annual information return § 501(c) groups must file with the IRS.

So, why are professional football leagues specifically mentioned in § 501(c)(6)? This language was added by a [1966 law](#) that addressed legal issues arising from the then-proposed merger between the NFL and the American Football League. ([The law also exempted the merger from anti-trust law](#).) Prior to the change in law, professional football leagues and other sports leagues could qualify for § 501(c)(6) status, and the effect of the 1966 amendment was merely to provide that the post-merger NFL would continue to qualify even if it administered a pension fund for its players—i.e., that doing so would not violate the prohibition against private inurement. This language has not prevented other sports leagues from qualifying for § 501(c)(6) status. Nor does it remove the NFL from otherwise having to comply with the private inurement prohibition. This is important because [questions have been raised](#) about whether the NFL is violating the prohibition by providing below-market-rate loans to teams.

Several bills have been introduced in the 113th Congress that would end the tax-exempt status of the NFL and other leagues. The Properly Reducing Overexemptions for Sports Act (or "PRO Sports Act"), H.R. 3965 and S. 1524, would provide that no entity with more than \$10,000,000 in gross receipts would qualify under § 501(c)(6) if it:

is a professional sports league, organization, or association, a substantial activity of which is to foster national or international professional sports competitions (including by managing league business affairs, officiating or providing referees, coordinating schedules, managing sponsorships or broadcast sales, operating loan programs for competition facilities, or overseeing player conduct).

Meanwhile, Chairman Camp's proposal for comprehensive tax reform, the draft [Tax Reform Act of 2014](#), would remove the § 501(c)(6) status of any "professional sports league."

Additionally, on September 16, 2014, [Senator Booker announced that he introduced legislation](#) that is intended to "increase funding for domestic violence prevention programs by \$100 million next year, paid for by closing a decades-old tax loophole used by professional sporting leagues." Also that day, [it was reported that](#) Senator Cantwell would be introducing legislation to repeal the NFL's tax-exempt status due to [concerns about the Washington Redskins' name](#). That legislation has not yet been introduced.

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