Testimony of Thaddeus J. Madden, Enrolled Agent

before the

U.S. House Ways and Means Committee

at the

Hearing on The Growing Business of Sports: Reviewing Federal Tax Policy in the Multibillion-Dollar Industry

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My name is Thad Madden, and I am an enrolled agent, a federally licensed tax practitioner empowered by the U.S. Department of Treasury with unlimited rights to represent taxpayers before any office of the Internal Revenue Service (IRS). I would like to thank Chairman Smith, Ranking Member Neal, and the other members of the committee for inviting me to testify. I am testifying in my individual capacity, so my testimony does not necessarily represent the views of any firm or company I represent. I request that my full written testimony be included in the record.

In today's testimony, I am limiting my remarks to the tax implications of Name Image and Likeness (NIL) income being earned by college athletes throughout the country and the inherent challenges facing these young men and women trying to understand the responsibilities and obligations that come with the money. I will relay a combination of my IRS experiences with what I've witnessed working NIL issues in the private sector over the past 18 months.

I retired from the IRS on December 31, 2024, after a 38-year career as a revenue officer, analyst, and program manager. I spent a three-year detail in the Learning and Education division of IRS during which I authored and presented technical and innovative training starting with the IRS Restructuring and Reform Act of 1998, which was delivered to employees nationwide. I also served two international assignments, in which I delivered Collection training to tax officials in the British West Indies and Russia. I helped launch the IRS National Fraud Program in 2001. I received a Fraud Merit Award in 2015, and in 2017 received special recognition from the Department of Justice at their annual Awards Ceremony here in Washington, D.C. I also received the first ever Lifetime Achievement Award from the Office of Fraud Enforcement prior to my retirement. One of my final projects with IRS was helping to lead an enterprise-wide initiative studying and addressing compliance issues with NIL, which was identified as an emerging issue for federal taxation.

As part of my tax consulting work post-retirement, I am specializing in NIL tax issues. As a tax consultant for **Scout**, a leading financial technology company that empowers athletes to take control of their financial future, and a certified service provider with **Athletes.org**, I've seen first-hand the ever-changing landscape of NIL, which enables me to help college athletes, and their families, understand and meet their tax obligations through awareness, education, advice, and representation. During the past year, I have personally visited ten universities with the **Scout** team for financial literacy presentations and one-on-one tax consultations with athletes. I have met with hundreds of athletes and their family members, prepared tax returns, and represented multiple NIL athletes as power-of-attorney with IRS representatives in various offices. I have also authored articles about NIL tax issues that were published in *Tax Notes Today* and *Bloomberg Tax*.

Brief History of NIL

Following successful lawsuits by student-athletes starting in 2015 and a unanimous Supreme Court ruling in *NCAA v. Alston* in 2021, the NCAA allowed student-athletes to receive compensation in exchange for use of their NIL, but still prohibited "pay-for-play" and using NIL income as recruiting inducements. This led to the rise of collectives, which are essentially independent booster-funded entities in which money is pooled and then paid out to athletes as compensation for services other than competing on the field or court, such as appearances at alumni events, summer camps, autograph and picture sessions, and "charitable" work. Many of these collectives were erroneously granted tax-exempt status under IRC 501(c)(3) leading to IRS Chief Counsel issuing a Memorandum (AM 2023-004) in June 2023 stating that most NIL collectives do not qualify for tax-exempt status because their prime purpose is to serve the private nonexempt interests of student athletes rather than a genuine charitable purpose.

Then came the settlement of House *v NCAA* on June 6, 2025, in which former Arizona State University swimmer Grant House, along with others, sued the NCAA over compensation restrictions. The House settlement contained many provisions, including scholarship and roster limits, the creation of an independent commission to approve NIL contracts, and the payment of almost $3 billion in damages to current and former Division I athletes. Taxwise, the most important provision allows schools to directly pay athletes for use of their NIL as a portion of the school's sports-generated revenue. Known now as Rev-Share, it allows schools to pay up to 22 percent of their revenue directly to athletes across all sports. The benefits cap was $20.5 million per school in 2025, with annual increases built in going forward.

College Athletes are Not Employees

One of misconceptions in the public is that college athletes are employees of the schools they're attending. Not true. They are self-employed independent contractors with no taxes withheld from their earnings, which means they need to pay their taxes on their own, preferably in the form of quarterly estimated payments. That's quite the ask for an 18 year old fresh out of high school. Any college athlete who receives a Form 1099-NEC for NIL income immediately steps into a far more complex tax situation than a traditional wage earner. Since they're self-employed, they must pay Social Security and Medicare tax (15.3% total) in addition to any applicable federal income tax. Whether they earn $3 million or $3,000, their federal return (Form 1040) can expand to 10–15 pages, requiring calculations for business expenses and profit, self-employment tax, scholarship income considerations, Qualified Business Income deductions, and quarterly estimated payments. Compare that to a young W-2 wage earner, with no itemized deductions or other income whose tax return might only be two pages.

Many of the major stakeholders including the schools, conferences, and the NCAA do not support classifying the athletes as employees. Many in the tax-world, including me, believe athletes would be classified as employees if the IRS would complete an employment tax audit using the traditional 20 Common Law factors which focus on behavioral and financial control and type of relationship. Of course, treating the college athletes as employees would come with additional expenses for the schools, including payment of ½ of Social Security and Medicare taxes, withholding requirements, payroll recordkeeping, additional state taxes, potential for health insurance and collective bargaining rights, which many believe is absolutely essential regardless of employment classification.

Lack of Withholding is a Disservice to Athletes

A friend of mine recently commented, "It's like these kids hit the lottery." I responded that it might be like the lottery dollarwise, but not taxwise. Because since 1977 when someone wins the lottery or a casino jackpot of more than $5,000, the payer is required under IRC section 3402(q) to withhold 24 percent in federal income taxes and remit that money to the IRS on behalf of the winner. In my opinion, any federal legislation focused on NIL should require some form of mandatory withholding from NIL payments, or at least from rev-share payments paid by the schools. This would be a great service to the athletes, giving them a head-start in being tax compliant as they earn their NIL money. They may be disappointed when they receive their first payment, but who hasn't been disappointed when receiving their first paycheck for much less than what was anticipated because of "all they took out"?

I have seen one school that offers voluntary withholding to their athletes on Rev-Share payments and a collective that makes estimated payments on behalf of the athletes if they choose to opt in. I've suggested this as a best practice when engaging with administrators at other schools.

Non-Cash Compensation

Athletes are often shocked by the amount of compensation listed on Form 1099. Many don't realize that non-cash compensation is often included and fully taxable. For example, many athletes are given high-priced vehicles either by the collectives or directly from dealerships, and these vehicles are often titled in the athletes' names. The vehicle's full value, which could be in the $50,000-$100,000 range, is listed on the Form 1099, and the athlete must include it as taxable income on their tax returns. Some collectives also cover the costs of rent and utilities for athletes to live in off-campus housing. Just like vehicles, these costs are listed on the Form 1099 and need to be included as taxable income.

Some athletes have told me they weren't advised up-front about the tax consequences of this income and didn't have any resources available on campus or from the collective to guide them through the process. Fortunately, some saved enough money to pay their tax liabilities when filing their returns. Unfortunately, others did not and must now negotiate payment agreements with the IRS.

Only a very small percentage of college athletes now earning NIL money will go on to play professionally, so this will most likely be the most money they earn in their lifetimes. It's hard to imagine athletes graduating from college and starting out in life with the IRS pursuing them for unpaid taxes or filing a tax lien against them that will have a negative impact on their ability to borrow. But that's the reality many of these young men and women are facing, especially those who are not continuing their athletic careers in professional leagues.

Another sad reality is the number of fraudsters out there scheming to profit from this newfound income source for young people. Ponzi schemes target athletes earning NIL income via email and social media sites. I was informed of a scheme in which the athlete responded to a solicitation and had his first two small investments doubled before making a substantial third investment, after which the fraudster disappeared.

Scholarships Are Partially Taxable

Many athletes and even school administrators falsely assume that scholarships are nontaxable. That's only partially true. The portion of the scholarship used for tuition and related expenses (fees, books, software, etc.) is not taxable, but any portion used for additional expenses such as room and board is fully taxable as ordinary income, meaning it's subject to federal income tax, but not self-employment tax.

Before NIL income, this amount may not have risen to a filing requirement since it may have been less than the standard deduction and the athlete typically had no other income. But now, when combined with NIL income from one or multiple sources, scholarships, and stipends, which are paid to assist with monthly living expenses, must be reported and taxed as additional income.

Diversity

If I were asked to describe my experience during my tour of colleges throughout the country in one word, it would be "diversity." I was impressed by the diversity of the athletes across all sports. Of course there's diversity of race, ethnicity, and nationality as international athletes from all over the world are now earning NIL income. There's also diversity in the income levels of the athletes with some earning only a few thousand dollars while others in high profile sports earning well over $ 1 million. But there's also the diversity of the backgrounds and support systems of the athletes. Some have great support systems whether it be their parents, grandparents, extended family, friends, high school coaches or mentors, financial advisors, and agents. Others have little or no support, or their "support system" is not providing the support they really need. With no unified national certification system, some agents are charging what many consider exorbitant fees to supposedly help athletes land a Rev-Share contract with their school or an NIL deal with a collective. I've met athletes with essentially identical Rev-Share contracts except one paid an agent 20% in fees while the other didn't even have an agent. If the contract is for $200,000, that would be $40,000 paid to an agent off-the-top. This is not to say there isn't a need for agents in the NIL world especially when it comes to landing brand deals, aka endorsements. I've also seen some well-known sports agents admirably charge nothing or much lower fees to college athletes.

I also saw a wide diversity when it comes to general tax knowledge with not only the athletes, but from their support systems as well. Some already have a great grasp of the tax implications of their NIL income and are proactive in putting money aside for taxes after each payment (usually monthly) is received. Some are proactively making quarterly estimated tax payments. Some are investing in retirement accounts, index funds, commodities like gold and silver, real estate, and other business ventures. Conversely, I saw an athlete who had close to $200,000 sitting in a non-interest bearing checking account; and another who claims a close family member stole $65,000 from his NIL earnings.

Estimated Tax Payments

One piece of advice I drive home during every presentation and every one-on-one session is "Put money aside for your taxes." Invariably the next question I get is "How much should I put aside for taxes?" I love to quote what I call the Third Rule, i.e., spend 1/3, save 1/3 and put 1/3 aside for taxes. If athletes have the discipline to follow this simple mantra, they'll never get into tax trouble.

One of the most difficult actions for any self-employed person is to make quarterly estimated tax payments throughout the year and it's even more difficult for a young athlete fresh out of high school. It's easy to not make the payments with the thought of catching up later. This often leads to multiple years of tax liabilities, what the IRS refers to as "pyramiding." My priority with athletes is that they start making estimated payments immediately for the current year even if they owe, or haven't filed, for prior years. This hopefully creates a mindset and a rote process of making estimated payments on a regular basis. I advise the athletes that they don't have to wait for the quarterly due dates to make an estimated tax payment. I've assisted dozens of athletes in creating their own personal account on *irs.gov* and showed them how to make online estimated payments both on a quarterly basis or whenever they choose - preferably after each payment is received. I also tell football and basketball players that if they're down by 10 or 15 points at halftime, they can come back and win if they have a good game plan and execute in the second half. But if they fall behind with the IRS, odds are they're not coming back — with accrued penalties and interest compounded daily, the IRS is the greatest frontrunner of all time.

Deductible Expenses

" What can I deduct?" is a question accountants and tax preparers have been asked since the Revenue Act of 1913, but this is the first time it's being asked by young college athletes. The "book answer" to this question is "any ordinary and necessary expenses that are common and acceptable in their industry." However, NIL income is so new that there are no industry standards, regulations, or guidance. I've had to tell some athletes that they can only deduct an expense if they paid for it out of their own pocket. This comes up when a collective is paying for an athlete's living expenses, including rent and utilities, and the athlete wants to deduct an expense for business use of the home. A deduction is possible if they have a portion of their living space dedicated to conducting NIL business, such as a spare bedroom used as an office, but it's definitely off the table if the athlete isn't paying for any of their living expenses.

However, there are certain expenses that can be deducted as business expenses: agent fees, attorneys and tax preparers, travel to and from NIL events (provided the athlete is paying the expenses), and certain nutritional items or training expenses if not provided by the school. For the average athlete, there aren't many business-related expenses to deduct from NIL income, especially if all their living expenses are being paid for by a collective or through their scholarship. Some higher-earning athletes are branching out into other business ventures and investments, like restaurants, clothing lines, and real estate, which lend themselves to more sophisticated tax planning and opens the door for other deductible expenses, such as capital investment and depreciation.

There's also a misconception that forming a Limited Liability Company (LLC) for the athletes allows them to deduct additional business expenses from their nonemployee compensation income. The fact of the matter is that an LLC set up as a disregarded entity does not provide any more deduction possibilities than a simple sole proprietorship reported on a Form 1040, Schedule C. The advantage of forming an LLC is legal liability protection for personal assets and it can also be helpful for an athlete to keep personal and business expenses separate. I've been advising some college athletes making substantial NIL money to consider forming a subchapter S corporation under IRC 1361, which can save them some self-employment tax since the flow-through profit to the owner/shareholder (i.e., the athlete) is exempt from self-employment tax. S corporations come with additional administrative burden and expenses, though, since the shareholder (athlete) must be paid a reasonable salary before any distributions are made. This means payroll must be established by issuing paychecks, withholding taxes, making federal tax deposits, filing corresponding employment tax returns, tracking corporate expenses, and filing a Form 1120-S tax return. In the end, it's up to the athlete to decide whether the tax benefits outweigh the additional administrative costs of forming an S corporation.

Transfer Portal Tax Issues

When I started the college tour with my **Scout** colleagues in January many of the football players we met had just arrived on Campus after entering the transfer portal. Over 6,700 Division I football players entered the portal this year. Players wanting to attend the Spring semester needed to sign with their new school in early January to meet university enrollment deadlines. And it wasn't just committing to attend and receive a scholarship. They were also negotiating contracts for Rev Share, NIL, and possible endorsement deals. As one player described it to me, "It's like being recruited back in high school, except instead of 6-9 months to make a decision, you have 6-9 days."

Many of these transfers reaped the benefit of a successful season and signed contracts for significantly more than they did in 2025. I haven't met one athlete who entered the portal who didn't receive a significant increase in Rev Share income. I met with a player who earned $60,000 in 2025 at a small school, entered the portal, and signed a $1 million Rev-Share contract for 2026 at a Power Conference school. That's a significant pay raise, but there are some impactful tax consequences that come with this windfall. Not the least of which is the change in Federal tax bracket from 22% to 37% and the elimination of the Qualified Business Income (QBI) deduction under IRC 199A due to the high income level. When adding this to self-employment and applicable state taxes this million dollars get quickly reduced to approximately $600,000. Still a lot of money, but a major surprise to a college athlete navigating in the uncharted waters of NIL.

Another transfer portal issue not garnering much attention are athletes who received substantial funds in late 2025 that they were forced to pay back in January 2026 when they transferred. Tax-wise this creates a problem because they must report and pay tax on the money received as "earned income" for 2025. This becomes a "claim of right" credit for 2026 under IRC 1341 that allows taxpayers to recover tax paid on income reported in a prior year that was later repaid. This solution results in the athlete not paying more in taxes than is ultimately owed, but it stretches across two years and is still a tough pill to swallow for young college athletes trying to make sense of it all. A related tax issue arises when the athletes incur additional expenses associated with transferring and terminating the contract. I've seen athletes breaking leases on apartments and paying the landlord thousands of dollars in damages.

Another problem I encountered, especially for transfer students, was simply finding all of their income documents like Form 1099s for Rev-Share, NIL from collectives and brand deals, and Forn 1098-Ts for their scholarships. Some schools, who started making Rev-Share payments in July 2025 have used multiple payment providers. Some of the athletes aren't sure who paid them during what time periods and how to locate the documents from their prior school. I helped an athlete who eventually located 13 income documents for 2025. Some of these documents were sent via regular mail to his parents' home and an old address on Campus. Some were sent via email, and others were eventually found on the university student portal and a digital wallet. Of course, these forms are also sent to the IRS and if any are not included as income, the athlete will eventually receive a Notice asking why and proposing an additional tax assessment.

State Taxes

Another issue outside the jurisdiction of this Committee but still worth noting involves state income taxes. This has become a huge issue not only for the athletes, but also for the schools as recruiting incentives. State income tax rates vary greatly from state to state — nine states have no income tax at all, while others have rates well over 10 percent. Schools in states like Florida, Texas, and Tennessee, which have no income tax, appear to have a recruiting advantage over schools in California or New York, which have the highest tax rates. This has become so impactful in the NIL world that Arkansas passed a law that exempts NIL income from state income tax. Similar legislation has also been introduced in Alabama, Georgia, Illinois, Mississippi, and South Carolina.

What happens if a young athlete from California accepts a scholarship to play football in Florida and earns significant NIL income there? Do they owe zero state income tax because the NIL money was earned in Florida, or do they owe California state income tax, which could be as high as 13 percent? Traditionally, some tax preparers have used the "183-day rule" to determine residency for state income tax purposes, meaning if one spends more than 183 days (more than half of the year) in a state, one may be considered a resident liable for state taxes on all income earned in that state. Add the transfer portal into the mix and matters can get even more confusing. I've met with athletes who are attending their third school in three years, in three different states, which creates a real bookkeeping challenge.

Since the 1990s, professional athletes have been subject to the "jock tax" when it comes to state and local income taxes, which allows states and cities to impose taxes on a portion of athletes' salaries when they play games in their jurisdiction. For example, a member of the Miami Dolphins plays an away game against the Los Angeles Rams. Even though the player is from Florida, where there's no state income tax, he becomes subject to California state income tax when he plays a game there. This hasn't happened in college sports yet because, in theory, the athletes are not being paid to play; they are only earning income from their NIL. It will be interesting to see if any states challenge this in the future.

Relaying My Experiences

During my time in enforcement at the IRS, I saw firsthand how tax problems can destroy businesses, partnerships, lifelong friendships, and marriages. I tell athletes that most tax problems are caused by a lack of planning and, more importantly, refusing to address an issue when it first arises. Many delinquent taxpayers allow their problems to fester because they ignore Notices from the IRS instead of reading them, calling the phone number listed, and contacting a reputable tax practitioner.

Most individual tax delinquents I had contact with while at the IRS were self-employed individuals who had no taxes withheld from their income, most of which was reported on Form 1099s that were also sent to the IRS. Usually, these people did not make quarterly estimated payments throughout the year, spent all the money they earned, and lacked the funds to pay their taxes by April 15th of the following year. Sound familiar? It's the exact situation student-athletes are facing today as they earn NIL income from multiple sources with no withholding. It's why I'm involved, and why I'll continue advocating for mandatory withholding and pestering athletes to make their estimated tax payments throughout the year, so they're not faced with a huge tax bill come April 15th.

Conclusion

I will conclude my testimony by thanking this Committee for holding this hearing. I'm aware of the various bills addressing college sports that have been introduced in the House and Senate as well as Executive Order 14400 signed by the President on April 3, 2026. I believe Federal legislation is needed to address many of the challenges currently facing college athletics. My testimony focused on the tax challenges facing college athletes as they earn these unprecedented amounts of money. Anything that can be done to help these young men and women voluntarily meet their tax obligations will be a great service to them especially the vast majority who will not go on to play professionally. I will continue to advocate for either mandatory withholding or employment status for the athletes so that at least a portion of their taxes will be paid for them out of their current earnings. I also believe financial literacy training is essential at both the college and high school levels, so they have a basic understanding of the U.S. tax system which is built on voluntary compliance. Thank you for inviting me and allowing me to speak at today's hearing. I am happy to answer any of your questions.