June 30, 2026

Chairman Smith, Ranking Member Neal and other

Members of the Committee:

My name is Robert Raiola, and I am a Director in the Sports & Entertainment group for the Accounting and Consulting firm PKF O'Connor Davies. I would like to thank Chairman Smith, Ranking Member Neal, and other Members of the Committee for inviting me to testify. I have attached my BIO and CV Robert Raiola | PKF O'Connor Davies see hyperlink

IRC Section 162(m) prohibits publicly held corporations from deducting compensation over $1 million per year paid to "covered employees". Covered employees include the principal executive officer (CEO) and the principal financial officer (PFO). The corporation's three most highly compensated officers. Anyone who served in one of these five roles since January 1, 2017, remains a covered employee permanently. The three highest paid officers for the taxable year (excluding The PEO and the PFO) are determined by looking to the company's proxy statement for the taxable year.

If an employee is paid $2.5 million, the corporation can only deduct $1,000,000 and permanently loses the deduction for the remaining $1.5 million. The 2017 tax cuts and job act (TCJA) removed the exception for performance compensation exception making virtually all forms of compensation count toward the $1 million cap.

The changes to IRC Section 162(m) that take effect in 2026 & 2027 will extend the $1 million deduction limit for executive compensation at public companies to more employees and affiliated groups.

OBBBA also took aim at the team owners' ability to deduct amortization (depreciation) of non-tangible assets which is write off most of the purchase price of a sports team, with a clause that would remove billions of dollars from being deducted on taxes. Team owners were allowed to deduct 100% of the purchase price over 15 years. Reducing this % to 50% did not pass.

TAX CONSIDERATIONS OF NIL INCOME

The landscape of college sports has changed in recent years. With the advent of Name Image and Likeness (NIL), student athletes have many opportunities to earn income. A NIL deal permits college athletes to make money from sources such as endorsements, sponsorship deals brand, social media, autograph signings, royalties and personal appearances to name a few) without jeopardizing their eligibility. Payments received through Venmo, Paypal and Cash App (relating to a NIL deal) are taxable.

All income from NIL deals is subject to Federal Income Tax including non-cash compensation. Student athletes are considered independent contractors for tax purposes. If a student athlete is considered an independent contractor, they should receive a 1099 from the school or company that paid them. Another way for college athletes to get paid is through NIL collectives (a group of boosters who pool resources) Their net earnings from self-employment are subject to Federal tax and self-employment tax. Some athletes are forming a single member LLC to receive their NIL money. If the LLC is a single member LLC the income will be reported on Schedule C of Form 1040.

Business Deductions Related to NIL Income

Student athletes can deduct "ordinary and necessary" expenses incurred while generating NIL income (such as agent fees, travel, marketing, conditioning costs, equipment, and legal fees.

Another way to minimize taxes is by opening a Simplified Employee Plan (SEP IRA). A SEP IS a tax-deductible retirement plan (2026 max contribution $72,000) designed for business owners and self-employed individuals.

Pittsburgh Jock Tax Ruling

Affirming the decisions of lower courts, the Supreme Court of Pennsylvania has found the city of Pittsburgh "jock tax" violated the Pennsylvania Constitution, because it discriminates against visiting team athletes who play in the city's publicly funded sports facilities.

The ruling ends litigation that began six years ago when two NHL players, Kyle Palmeri and Scott Wilson; 1 former MLB player Jeff Francoeur; and the NHLPA, NFLPA and MLBPA sued Pittsburgh. They challenged a tax Pittsburgh began collecting in 2005. A 3% 'Nonresident Sports Facility Usage Fee" on income that Pittsburgh nonresidents earn in PNC Park, Acrisure Stadium and PPG Paints Arena. These three facilities host MLB, NFL and NHL games, as well as concerts and other entertainment events.

The legal argument against the jock tax centered on the Uniformity Clause of the Pennsylvania Constitution. This clause instructs that tax imposed on "the same class of subjects" in the state must be uniform. The problem with the facility fee is that it treats non-residents athletes & performers (who pay a 3% facility fee) worse than residents who pay only a 1% fee.

The city insisted there is no discrimination, because other taxes even out what nonresidents and residents pay. Specifically, residents must pay 2% school-district tax that doesn't apply to nonresidents. The net result: both groups pay the same rate, 3%, and therefore Pittsburgh insisted the facility complies with the Uniformity Clause.

Three levels of courts have now told city officials they're wrong. A trial judge and a group of intermediate appellate judges rejected that argument, since uniformity analysis can't mix and match taxes. Different kinds of taxes are for different purposes, such as a tax for playing in a sports stadium and one related to funding schools.

In an opinion issued on 9/25/25, the Supreme Court of Pennsylvania agreed with the lower courts. The court stated there is precedent for the point of law and veery tax operates “alike on the class of things or property subject to it.”

At the same time, the Supreme Court acknowledged that the uniformity clause does not mandate absolute equality or perfect uniformity in taxation. However, a difference in classification must be “based upon some legitimate distinction between the classes such that it provides a non- arbitrary, reasonable and just basis for the disparate treatment”

The Supreme Court Judge Henry Wecht, stated the city failed to meet that test and explained that the city failed to provide any “concrete reasons” to justify taxing nonresidents and entertainers at a higher rate than residents in the same positions. Instead, Pittsburgh’s defense rested on the idea that the taxes equal out when

Pittsburgh also couldn’t argue that the facility tax was intended to offset public funds used to build the facilities, As Wecht noted, the fee was a response to Pittsburgh’s “severe financial distress” in the early 2000’s and the city’s accompanying need to rai e revenue. Further problematic for Pittsburgh is that the 3 stadiums were built In part through public funds “none of those funds” came from the city.

The Supreme Court of Pennsylvania in NHLPA ET AL v Pittsburgh does not impact jock taxes in other states and municipalities. Those taxes are governed by their own states’ court systems and laws. The structure of Pittsburgh tax, which involves applying a different rate to nonresidents, is distinguishable from many other such taxes, which are typically the same rate as visiting players.

Pro Athletes face Washington's Millionaires Tax

Beginning in 2028, Washington (state) will impose a 9.9% tax on households with adjusted gross income greater than $1 Million. This means the first tax returns and payments for 2028 will be due in April 2029. New taxes for many players on Seattle pro sports teams as well as college athletes at Washington schools who are earning seven figures or revenue sharing. Nonresidents with Washington sourced income are also subject to the Washington millionaires' tax.

Washington is one of nine states in the U.S. without an income tax. The others are Alaska, Florida, Nevada, New Hampshire, South Dakota, Tennessee and Wyoming. While rosters and payrolls in 2028 are not known, current rosters and payrolls indicate that more than 50 Seahawks players, along with 30 Mariners players and some Kraken players would pay the tax if it were applied in 2026. The NBA is also exploring a Seattle franchise. If the NBA grants Seattle franchise, most of the players on the Seattle team would be subject to millionaires' tax. (2028-29) For Washington residents, the tax applies to all taxable income , and for with Washington nonresidents, it applies to the net proportional amount of income derived from or connected with Washington

Even athletes who earn less than $1 million from their teams could face the tax if their endorsement and other sources of income bring their total earnings above the million-dollar mark. The tax could make it more challenging for Seattle teams to recruit free agents. If the NBA grants a franchise to Seattle, this could hurt in recruiting free agents.