

Possible Tax Fallout for Student and Professional Athletes from NCAA-Related Investigations

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The recent FBI probe into fraud and bribery in NCAA men's basketball has produced articles and commentary on the reality of student athlete recruiting and the potential impact on powerhouse programs. ***What has been ignored is the tax impact and consequences on the players and their families.***

The possible exposure for any player and/or family who has received money and/or gifts are not the only matters under FBI investigation, but also the potential tax issues under the rubric of the IRS. U.S. tax laws contain both civil and criminal penalties for failure to report taxable income, and receipt of payments or goods in connection with the college recruiting conduct—which is the subject of the FBI's investigation—could be considered taxable income. While the general statute of limitations for the IRS to assess back taxes is three years, the statute for criminal purposes is generally six years, and there is no statute of limitations on the IRS's ability to collect back taxes if the IRS shows that the failure to report income was the result of fraud.

The size of the payments disclosed in the portion of the FBI investigation made public by release of the recent indictment also raise the potential application of federal monetary laws, especially laws prohibiting the structuring of deposits for the purpose of evading bank reporting requirements for large cash deposits.

Any player and/or family who might be caught up in the types of actions alleged in the recent indictment and discussed in the press should know that the IRS has a long-standing policy of welcoming taxpayers who voluntarily disclose prior non-compliance on a timely basis, i.e., generally before the IRS begins a criminal investigation or civil examination. The IRS will expect a truthful and complete disclosure, the filing of amended or delinquent tax returns, payment of taxes and interest, and it may assess civil tax penalties as part of the voluntary disclosure process. But, if the disclosure is timely, complete and accurate, the IRS generally will not recommend criminal prosecution.

It appears clear from media reports that the FBI is expanding its probe into college basketball beyond the already announced targets (for instance, they could potentially target other college sports). Although it is the FBI who appears to be concentrating on the coaches, company executives, agents, and financial advisors involved in this scandal should be concerned that the FBI can easily pass along information to the IRS and to the Tax Division of the U.S. Department of Justice. Both of these authorities are capable of opening their own inquiries with respect to tax and other violations.

What any player and/or family who may have received something of value needs at this time is to understand the exposure and how to mitigate any risks. Caplin & Drysdale attorneys are uniquely positioned to counsel players, their family members, and their advisors that could be impacted by these recent events. Our attorneys are experienced in assisting individuals who may owe substantial sums to the IRS and who run the risk of detection, examination, prosecution, and collection action arising from any form of tax non-compliance, including that involving unreported income.

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