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Nonresident State and Local Income Taxes in the United States: The Continuing Spread of “Jock Taxes”

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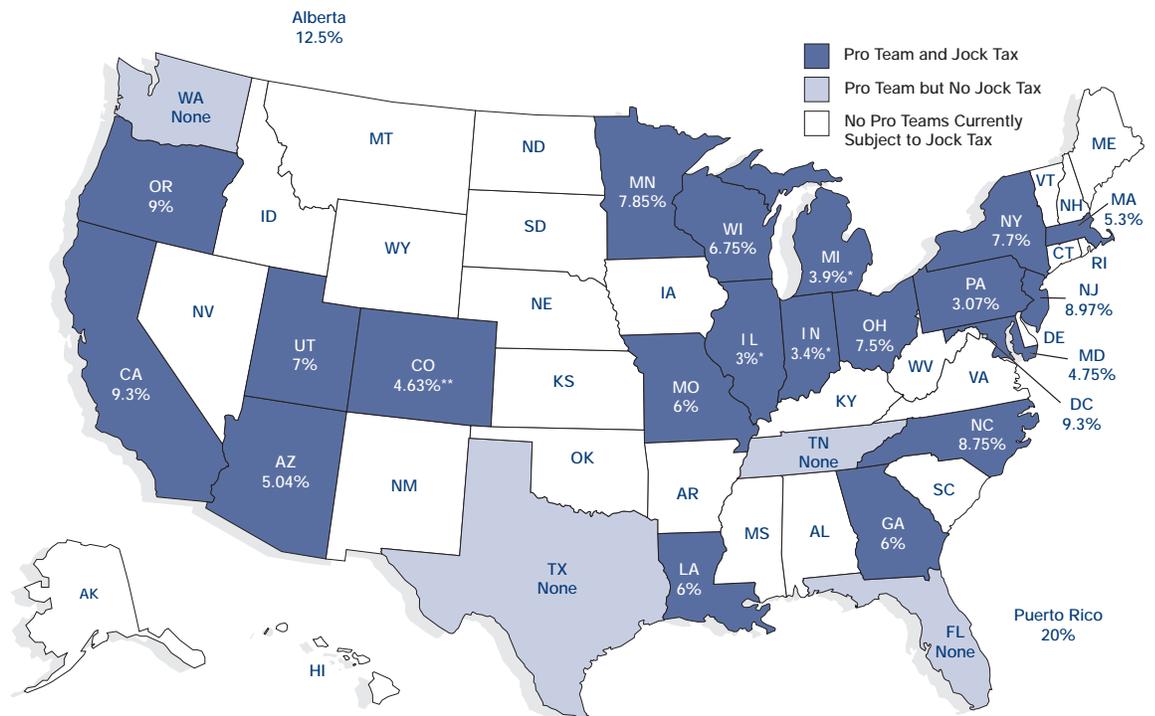
Introduction

When the 2004 Major League Baseball All-Star Game is played on July 13 at Minute Maid Park in Houston, most people will be paying attention to the players, the game and the surrounding festivities. But at most All-Star Games, there is one group of people who pay more attention to tax forms than to baseball.

They are the many state tax officials across the country who keep track of the players' salaries and see to it that they fill out the proper individual income tax forms to pay the “jock tax.”

That will not be an arduous task this year, as it has been in previous years, since the host state, Texas, does not have an income tax and therefore has no jock tax. In previous years,

Figure 1
Top Tax Rates on Wages and Salaries in Locations with Professional Sports Franchises
As of July 1, 2004



* Tax base is federal AGI with modifications.

** Tax base is federal taxable income.

See Table 2 for more details.

states reaped the financial benefits of hosting the All-Star Game not only in the obvious ways, but also by imposing a tax informally known as the jock tax on all visiting team employees—players, announcers, managers, trainers, etc. In 2003, Illinois hosted the All-Star Game and required visiting players and other team employees to pay the jock tax—Illinois' state income tax—on the income they earned during the weekend of the game. Although the visiting players, coaches and support staff are just like anyone else whose work brings them to Illinois, the tax law treats them differently. It requires all visiting athletes and other team employees to pay state income taxes for the day of the game, as well as the rest of the weekend. The tax is due even if a player does not set foot on the field.

The premise of the jock tax is that an athlete should pay taxes on money he earns while working in a state where he does not reside. One might assume, then, that since a person can work in only one state at a time, players who work in income tax-free Texas during the 2004 All-Star Game will not be simultaneously working in their home state

and will therefore not have to pay any income taxes for the weekend of the game. This, however, is not the case. The only All-Star Game participants who will escape income taxation for the weekend of the game are those who hail from Florida or Washington—states that do not have an income tax—and, of course, the Texas Rangers and Houston Astros.

The Taxation of Nonresident Athletes

“Jock tax” is a colloquial expression referring to a state's application of its income tax to visiting professional athletes. Twenty of the 24 states that have within their borders at least one professional sports team in the NFL, NBA, NHL or Major League Baseball (MLB) have instituted a jock tax, either legislatively or administratively. All of these jock tax states actually enforce the tax on more people than just the athletes. All employees of the sports franchises have to pay, no matter what their incomes. Some states have extended the tax to visiting entertainers as well, especially rock

Table 1
Salaries and State Income Taxes of Major League Baseball All-Star Game Participants, Calendar Year 2004

American League Players	Team	Annual Salary	Salary Per Duty Day	All-Star Jock Tax	National League Players	Team	Annual Salary	Salary Per Duty Day	All-Star Jock Tax
Ivan Rodriguez	Detroit	\$ 7,000,000	\$ 83,333	\$ 3,417	Mike Piazza	New York	\$ 16,071,429	\$ 191,327	\$ 12,709
Jorge Posada	New York	9,000,000	107,143	6,942	Brad Ausmus	Houston	1,000,000	11,905	0
Jason Giambi	New York	12,428,571	147,959	9,738	Albert Pujols	St.Louis	7,000,000	83,333	4,775
Carlos Delgado	Toronto	19,700,000	234,524	0	Jeff Bagwell	Houston	16,000,000	190,476	0
Alfonso Soriano	Texas	5,400,000	64,286	0	Jeff Kent	Houston	10,000,000	119,048	0
Pokey Reese	Boston	\$ 1,000,000	\$ 11,905	\$ 631	Marcus Giles	Atlanta	\$ 430,000	\$ 5,119	\$ 289
Derek Jeter	New York	18,600,000	221,429	14,771	Edgar Renteria	St.Louis	7,250,000	86,310	4,954
Nomar Garciaparra	Boston	11,500,000	136,905	7,256	Adam Everett	Houston	370,000	4,405	0
Alex Rodriguez	New York	22,500,000	267,857	17,951	Scott Rolen	St.Louis	8,625,000	102,679	5,936
Bill Mueller	Boston	2,100,000	25,000	1,325	Aramis Ramirez	Chicago	6,000,000	71,429	0
Vladimir Guerrero	California	\$ 11,000,000	\$ 130,952	\$ 10,253	Barry Bonds	San Francisco	\$ 18,000,000	\$ 214,286	\$ 18,003
Manny Ramirez	Boston	22,500,000	267,857	14,196	Sammy Sosa	Chicago	16,000,000	190,476	0
Johnny Damon	Boston	8,000,000	95,238	5,048	Ken Griffey Jr.	Cincinnati	12,500,000	148,810	7,974
Gary Sheffield	New York	13,000,000	154,762	10,204	Lance Berkman	Houston	6,500,000	77,381	0
Ichiro Suzuki	Seattle	6,500,000	77,381	0	Craig Biggio	Houston	3,000,000	35,714	0
Carlos Beltran	Kansas City	\$ 9,000,000	\$ 107,143	\$ 9,061	Moises Alou	Chicago	\$ 9,500,000	\$ 113,095	\$ 0
Tim Hudson	Oakland	5,000,000	59,524	3,610	Roger Clemens	Houston	5,200,000	61,905	0
Mark Mulder	Oakland	4,450,000	52,976	3,001	Tom Glavine	New York	10,765,608	128,162	8,382
Curt Schilling	Boston	12,000,000	142,857	7,571	Carlos Zambrano	Chicago	450,000	5,357	0
Jake Westbrook	Cleveland	925,000	11,012	142	Ben Sheets	Milwaukee	2,425,000	28,869	1,690
C.C. Sebatia	Cleveland	\$ 2,700,000	\$ 32,143	\$ 987	Jason Schmidt	San Francisco	\$ 7,937,500	\$ 94,494	\$ 6,863
Freddy Garcia	Seattle	6,875,000	81,845	0	Brad Penny	Florida	3,725,000	44,345	0
Kevin Brown	New York	15,714,286	187,075	12,418	Randy Johnson	Arizona	16,000,000	190,476	8,332
Esteban Loaiza	Chicago	4,000,000	47,619	0	Randy Wolf	Philadelphia	4,375,000	52,083	1,599
Mariano Rivera	New York	10,890,000	129,643	8,484	Danny Graves	Cincinnati	6,000,000	71,429	2,972
Francisco Cordero	Texas	\$ 2,000,000	\$ 23,810	\$ 0	Armando Benitez	Florida	\$ 3,500,000	\$ 41,667	\$ 0
Joe Nathan	Minnesota	440,000	5,238	280	Danny Kolb	Milwaukee	1,500,000	17,857	974
Troy Percival	California	7,833,333	93,254	6,747	Trevor Hoffman	San Diego	2,500,000	29,762	1,054
Kevin Foulke	Boston	3,500,000	41,667	2,208	Jose Mesa	Philadelphia	800,000	9,524	292
Melvin Mora	Baltimore	2,333,333	27,778	1,267	Eric Gagne	Los Angeles	5,000,000	59,524	3,770
Total		\$ 257,889,523	\$ 3,070,113	\$ 157,509	Total		\$ 208,424,537	\$ 2,481,244	\$ 90,569

Source: USA Today Baseball Salaries, Computations by Tax Foundation.

stars.¹ Currently, New Jersey is the only state to extend the jock tax to out-of-state lawyers. Cincinnati, Ohio has continued the spread of the tax by extending it to athletes in “extreme” sports such as skateboarding.

Texas, Florida, Tennessee and Washington State have no individual income tax to foist on visitors, and Congress has forbidden the District of Columbia from imposing nonresident income taxes. This has not stopped the District of Columbia City Council from lobbying to gain that right, but in May 2003, Major League Baseball replied in a surprisingly forceful way, stating that a major league baseball team will not be stationed in the District of Columbia if a jock tax is enacted.²

In addition to paying state jock taxes when they're on the road, visiting teams are also forced to pay city income taxes. Ohio has a jock tax but also grants its localities the authority to levy their own. Cleveland and Columbus were the first to do so, and in December 2002, Cincinnati started charging visitors 2.1 percent of their daily income for each day they spend in the city (see Table 2). The city of San Juan in Puerto Rico recently joined the Canadian cities of Edmonton and Calgary on the roster of cities that levy a local jock tax, and the latter cities are even more discriminatory in the occupations that are targeted. Philadelphia and Pittsburgh also levy an “earnings” tax. In Philadelphia, the tax rate is actually higher for nonresidents than for residents.

How It All Started and Who Pays It

The so-called jock tax is sometimes a separate tax law but usually just an aggressive extension of an income tax to selected nonresidents by a city, state, province or territory.³ Strangely, it all started with Michael Jordan. After his Chicago Bulls beat the Los Angeles Lakers in the 1991 NBA Finals, California decided to extend its state income tax to Michael and the world champion Bulls.

Illinois retaliated the following year by levying a jock tax of its own. Dubbed “Michael Jordan's Revenge” in the press, Illinois' tax applied strictly to players from states that taxed visiting athletes, which at the time was only California. Today, of the 24 states that have a professional sports team, only four do not have a jock tax (Texas, Florida, Tennessee and Washington). The District of Columbia does not have one, but several other cities have enacted their own, as have Puerto Rico and Alberta, Canada (see Figure 1).

So far, the four leagues affected are the National Football League (NFL), the National Basketball Association (NBA), the National Hockey League (NHL) and Major League Base-

ball (MLB). Despite the fact that many state statutes do not limit collection specifically to these four leagues, surveys of key personnel in the industry indicate that members of the Professional Golf Association, the Women's National Basketball Association, the Arena Football League and many others are not currently paying the tax. That may change soon, however, since the tax is already being collected by many states from “rock stars” and the people who travel with them.

Special Cases and Exceptions

As with all state tax matters, each state handles cases in a different way. A few of the major exceptions deserve comment.

Illinois

On July 14-16, 2003, Major League Baseball held its All-Star Game in Chicago. Most players and support staff were subject to the jock tax in Illinois, but there were a few exceptions. For example, highly-paid Texas Ranger superstar Alex Rodriguez, who had paid more jock taxes than any other player at the 2002 All-Star Game, was exempt from the tax because Illinois' jock tax is retaliatory, hitting only residents of states that tax Illinois residents. Texas has no state income tax and does not tax Illinois' athletes, so Illinois returned the favor to Rodriguez, a Texas resident. Illinois is the only state that forgives jock taxes on athletes who come from states with no jock tax.

Illinois is not so forgiving to its own residents, refusing to credit its resident athletes for the jock taxes they pay out of state. So, in 2002, when Sammy Sosa and Paul Konerko traveled to the All-Star Game in Milwaukee, they not only paid Wisconsin's jock tax; they then had to turn around and pay Illinois taxes on the same income. This double taxation occurs every time the employees of Illinois franchises hit the road. Since Illinois' professional athletes play more than half of their away games in states that levy a jock tax, they are paying a hefty amount of extra taxes.

States With No Individual Income Tax

Because the jock tax is a battle among competing state income tax systems, a few athletes will escape this year. Since the All-Star Game is in Texas, which has no income tax, the athletes whose home states also have no income tax will catch a break. This year, 19 players will be Texans or will be visiting from Washington or Florida, which do not have state income taxes. (See Table 1.) Right fielder Ichiro Suzuki of the Seattle Mariners will not owe jock taxes for his time in Houston, but his

American League teammate, left fielder Manny Ramirez from Boston, will owe over \$14,000 in income taxes to his home state of Massachusetts for the weekend of the All-Star Game.

Playing in or moving to a state without an income tax significantly affects an athlete's income tax burden for the weekend of the All-Star Game—or any other game. A recent trade illustrates the extent of this change. Former Texas Ranger superstar Alex Rodriguez, the most highly paid baseball player, was traded to the New York Yankees in the off-season. He will now owe the state of New York roughly \$18,000 for his stay in Texas during the 2004 All-Star Game, a weekend that would be tax-free were he still a Ranger. His counterpart in the trade, Alfonso Soriano, is now a Texas resident and will save nearly \$3,000.

Roger Clemens

Houston Astro pitcher Roger Clemens will be exempt from paying income taxes on the All-Star Game weekend and any other games he plays at home or in Illinois or Florida. However, Mr. Clemens' jock tax payments may be even lower than Mr. Soriano's, due to a stipulation in his Houston Astros contract that exempts him from the usual requirement that he travel with the team on days when he is not scheduled to pitch. On approximately 50 of the 209 duty days, therefore, he may have no jock tax liability, thus saving roughly \$57,000, depending on which states he ends up pitching in. However, it is quite likely that state revenue departments will take no notice of Clemens's absence from the team, taxing him as if he had travelled with the team, leaving it up to him to challenge their claim.

Why the Jock Tax Has Spread and Why It Should Be Stopped

Professional athletes make tempting targets for state lawmakers because they represent a highly concentrated pool of wealth that can be taxed with little enforcement. Like other nonresidents, athletes can be taxed by states without fear of political pressure. Most important, professional athletes cannot take their business elsewhere: each professional sports league is a government-backed monopoly that decides when and where its employees will work.

Despite its appeal to state lawmakers, the jock tax is a case study of poor tax policy for many reasons. First, the jock tax is deceptive because it masquerades as a tax on multi-millionaire superstars. In fact, all players,

coaches and support staff of sports teams in four professional leagues have to pay it, and the tax has begun to spread even further.

Second, the jock tax is arbitrary because it targets a specific occupation. Many doctors and lawyers have comparable lifetime earnings, and some business executives earn far more, but they do not have to pay state income taxes in every state where they may travel while working. Legally, state tax administrators could demand a tax return from every worker who crosses their borders, but so far, only the athletes and their colleagues are being systematically tracked down.

Third, those affected by the jock tax have to file numerous state income tax forms, and now city and foreign income tax forms as well. This complexity adds to the overall compliance costs borne by taxpayers—a burden that is proportionately much greater on employees with lower incomes.

Finally, economic and legal arguments do not justify the jock tax as currently administered. Proponents of the jock tax claim that because their states are providing a market for visiting athletes and their colleagues to earn money, tax on the athletes' income should go to them, not to the athletes' home states. This is the so-called nexus argument.

But as tax administrators currently enforce the jock tax, nexus in one state does not prevent another state from also levying a tax on the same income. Clearly, a player can only be in one state at a time. If all states ignored the out-of-state income earned by their own resident athletes, they could claim to be honoring the principle of nexus. However, they do not ignore that income. For example, in a high-tax state like California, tax administrators add up all out-of-state income earned by the state's resident athletes, subtract out-of-state taxes paid on that income from what the athletes would have paid had their away games been played in California, and collect the difference. Low-tax states like Pennsylvania do not ignore the income earned out of state either. They include the out-of-state income earned by their athletes and then credit them for the taxes they paid to other states, but only up to the amount they would have paid in Pennsylvania. Either way the players lose. Illinois' athletes have the worst of both worlds. They are taxed on most of their away games by two states and receive no credits for taxes paid. Any tax system or any conflict between two tax jurisdictions that results in the same dollar of income being taxed twice is a blatant example of poor tax policy and unfair double taxation.

Furthermore, for athletes, the nexus between the income earned and the location of

Table 2
Individual Income Tax Rates on Wages and Salaries in States with NFL, NBA, NHL or Major League Baseball Franchises
As of July 1, 2004

	Federal Deductibility	Marginal Rates and Tax Brackets for Single Filers (a)	Standard Deductions		Personal Exemptions	
			Single	Joint	Single (b)	Dependents
Arizona	No	2.87% > \$0; 3.20% > \$10K; 3.74% > \$25K; 4.72% > \$50K; 5.04% > \$150K	\$ 4,050	\$ 8,100	\$ 2,100	\$ 2,300
California	No	1% > \$0; 2% > \$5,834; 4% > \$13,829; 6% > \$21,826; 8% > \$30,298; 9.3% > \$38,291 (j)	\$ 3,070 (j)	\$ 6,140 (j)	\$ 80 (c)(j)	\$ 251 (c)(j)
Colorado	No	4.63% of federal taxable income	n.a.	n.a.	n.a.	n.a.
Florida	No	None	n.a.	n.a.	n.a.	n.a.
Georgia	No	1% > \$0; 2% > \$750; 3% > \$2,250; 4% > \$3,750; 5% > \$5,250; 6% > \$7K	\$ 2,300	\$ 3,000	\$ 2,700	\$ 2,700
Illinois	No	3% of federal adjusted gross income with modification	n.a.	n.a.	\$ 2,000	\$ 2,000
Indiana	No	3.4% of federal adjusted gross income with modification	n.a.	n.a.	\$ 1,000	\$ 1,000
Louisiana	Yes	2% > \$0; 4% > \$10K; 6% > \$50K	n.a.	n.a.	\$ 4,500 (f)	\$ 1,000
Maryland	No	2% > \$0; 3% > \$1K; 4% > \$2K; 4.75% > \$3K	\$ 2,000 (g)	\$ 4,000 (g)	\$ 2,400	\$ 2,400
Massachusetts	No	5.3%	n.a.	n.a.	\$ 3,300	\$ 1,000
Michigan	No	3.9% of federal AGI with modification	n.a.	n.a.	\$ 3,100	\$ 3,200
Minnesota	No	5.35% > \$0; 7.05% > \$18,710; 7.85% > \$61,460	\$ 4,750 (k)	\$ 9,500 (k)	\$ 3,000 (k)	\$ 3,000 (k)
Missouri	Yes	1.5% > \$0; 2% > \$1K; 2.5% > \$2K; 3% > \$3K; 3.5% > \$4K; 4% > \$5K; 4.5% > \$6K; 5% > \$7K; 5.5% > \$8K; 6% > \$9K	\$ 4,750 (k)	\$ 9,500 (k)	\$ 2,100	\$ 1,200
New Jersey	No	1.4% > \$0; 1.75% > \$20K; 3.5% > \$35K; 5.525% > \$40K; 6.37% > \$75K; 8.97% > \$500K	n.a.	n.a.	\$ 1,000	\$ 1,500
New York	No	4% > \$0; 4.5% > \$8K; 5.25% > \$11K; 5.9% > \$13K; 6.85% > \$20K; 7.5% > \$100K; 7.7% > \$500K	\$ 7,500	\$ 14,600	n.a.	\$ 1,000
North Carolina	No	6% > \$0; 7% > \$12,750; 7.75% > \$60K; 8.25% > \$120K	\$ 3,750	\$ 6,100	\$ 1,050 (h)	\$ 1,050 (h)
Ohio	No	0.743% > \$0; 1.486% > \$5K , 2.972% > \$10K; 3.715% > \$15K; 4.457% > \$20K; 5.201% > \$40K; 5.943% > \$80K; 6.9% > \$100K; 7.5% > \$200K (d)	n.a.	n.a.	\$ 1,250 (e)	\$ 1,250 (e)
Oregon	Yes	5% > \$0; 7% > \$2,500; 9% > \$6,300	\$ 1,670	\$ 3,345	\$ 142 (c) (j)	\$ 142 (c) (j)
Pennsylvania	No	3.07%	n.a.	n.a.	n.a.	n.a.
Tennessee	No	None	n.a.	n.a.	\$ 1,250	n.a.
Texas	No	None	n.a.	n.a.	n.a.	n.a.
Utah	Yes	2.3% > \$0; 3.3% > \$863; 4.2% > \$1,726; 5.2% > \$2,588; 6% > \$3,450; 7% > \$4,313	4,750	\$ 9,500	\$ 2,288 (i)	\$ 2,288 (i)
Washington	No	None	n.a.	n.a.	n.a.	n.a.
Wisconsin	No	4.60% > \$0; 6.15% > \$8,280; 6.50% > \$16,560; 6.75% > \$124,200	\$ 7,440 (f)	\$ 13,410 (f)	\$ 700	\$ 700
Dist. of Col.	No	5% > \$0; 7.5% > \$10K; 9.3% > \$30K	\$ 1,000	\$ 2,000	\$ 1,370	\$ 1,370
Alberta, Canada	n.a.	12.5%	n.a.	n.a.	n.a.	n.a.
Puerto Rico	n.a.	20%	n.a.	n.a.	n.a.	n.a.

(a) The brackets are exactly double for married couples filing jointly.

(b) Married-joint filers receive double the single exemption.

(c) Tax Credit.

(d) Taxpayers receive a declining tax credit instead of a deduction or exemption of taxable income. It declines to 0 after \$52,500.

(e) Taxpayers receive a \$20 tax credit per exemption in addition to the normal exemption amount.

(f) Standard deduction and personal exemptions are combined: \$4,500 for single and married filing separately; \$9,000 married filing jointly and head of household.

(g) The standard deduction is 15 percent of income with a minimum of \$1,500 and a cap of \$2,000 for single filers, married filing separately filers and dependent filers earning more than \$13,333. The standard deduction is capped at \$4,000 for married filing jointly filers, head of household filers and qualifying widowers earning more than \$26,667.

(h) Exemptions are based on federal standards deductions but are adjusted according to income and filing status.

(i) Three-fourths federal exemption.

(j) Indexed for inflation.

(k) Deductions and exemptions tied to Federal tax system. Federal deductions and exemptions are indexed for inflation.

Sources: State tax forms and instructions, Commerce Clearing House, and Federation of Tax Administrators. For all states and more detail, see *Tax Foundation Special Report*, No. 128, "State Tax Collections and Rates" and www.TaxFoundation.org/individualincometaxrates.html.

the stadium is tenuous at best. Athletes' paychecks are issued in the state of the home team, and those paychecks are in no substantial way dependent on the specifics of the team's travel schedule. If a player does not travel with the team for any reason, his salary remains the same. If many fans buy tickets, or no one attends, the player's income remains the same. And if the team switches cities or signs a new television contract, the player's salary is still unchanged. In effect, nothing about the out-of-state location determines how much the player earns.

A reasonable approach to nonresident taxation would not include jock taxes. All employees of professional sports franchises are salaried employees who should be paying all their taxes in the states where they live or the states where their employers are located. This change would not cost states much revenue because credits currently cancel out most of the collections. Without the jock tax, states' income tax systems would operate on a more principled basis. Athletes and their unfortunate moderate-income colleagues—scouts, coaches and support staff—would not be singled out for unfair treatment, and a great deal of unproductive tax paperwork would be eliminated.

Computing the Income of An Athlete on the Road

Although some states have implemented minor variations on the calculation, each state basically determines a visiting athlete's daily income in that state by dividing the number of "duty days" into his annual salary. Most states consider a duty day to be any day on which a preseason, regular season, or postseason game is played, as well as any other days the team spends in a particular jurisdiction.⁴ For example, when a baseball player or a team's equipment manager travels to New York for 12 games over the course of a season, spending a total of 14 days in the state, New York's tax administrators will divide the 14 New York duty days by annual duty days (approximately 210), multiply that percentage by his annual salary, and tax the product.

The calculation is similar for athletes in other sports. For example, NBA basketball teams play approximately 10 preseason games and 82 regular season games. In addition, teams spend approximately 13 additional workdays during the season in states outside of their home state for a total of 105 workdays, or duty days. If a player's annual salary is \$1 million, he can be said to earn \$9,524 per duty day. Therefore, each city, state, province or

territory with a jock tax that he travels to will consider his income to be \$9,524 times the number of duty days spent in that state.

Extra Taxes, Even Double Taxation

If athletes and their non-jock colleagues are paying out-of-state taxes wherever they go, how can they avoid paying taxes in two places on the same income? In many cases they cannot, but the most common partial solution is for the home state to grant a tax credit for the amount of out-of-state taxes paid, but only up to the amount the home state would have collected. If the out-of-state tax is lower, then the home state generally tops it off by levying a tax for the difference. If the athlete is in a non-jock tax state, such as Texas, over the All-Star weekend, he is taxed in full by his home state.

One state, Illinois, does not give credits at all, with the result that all Illinois athletic teams are double taxed on every duty day they spend outside the state. For example, if a member of the Chicago Bulls earns \$1 million annually and spends five duty days in California over the course of the season, his taxable income for the five duty days is \$47,620. This would result in a California income tax bill of \$2,553. If he lived and paid income taxes in any state but Illinois, his state would credit his out-of-state tax payment. But because his home state is Illinois, those California duty days and California taxes are not recognized and he owes an additional \$1,429 at home, for a total tax bill of \$3,982 on the five duty days spent in California.

Illinois's hardball approach is unique now, but other states may adopt it, especially states with moderate tax rates. That is because states that have moderate income tax rates currently gain little revenue from the jock tax. The credits for out-of-state taxes paid by their athletes almost equal the taxes collected from visiting jocks. Yet many states and cities have predicted significant new revenue upon passage of a jock tax, and as they realize that the jock tax is not much of a revenue raiser if credits for out-of-state taxes are allowed, they may follow the Illinois example and stop allowing the credits.

Another example of discriminatory taxation can be found in the Province of Alberta, home to two NHL hockey franchises: the Edmonton Oilers and the Calgary Flames. Alberta does not tax visiting players at all with a conventional jock tax but instead focuses all its collection efforts on its home team jocks by levying an extra 2.5 percent income tax on top of the 10 percent that is levied on the general

public. Even worse for those players, Alberta does not credit its own residents at all for jock taxes paid elsewhere.

At the time of this writing, no U.S. jurisdiction has enacted a distinct, higher income tax rate targeted at one profession as Alberta has, but Colorado's state legislature did consider such a step. In February 2002, a proposal to charge visiting athletes 6 percent of income while preserving the state's general 4.63 percent rate fell short of passage.

High-Tax States Benefit More from Jock Taxes

The current administration of state jock taxes greatly benefits states with high tax rates on income. The higher the individual income tax rate in a state, the more revenue the jock tax generates. That's because visitors to high-tax states are paying more in jock taxes than the residents of that state are earning in credits for taxes paid out of state. California has 14 teams in the four major sports and siphons the most tax revenue from other states.

Meanwhile, states with low income tax rates, like Pennsylvania with its 3.07 percent rate (up from 2.8 percent last year), stand to gain little. Their residents claim credits for high taxes paid elsewhere, but visiting athletes pay at the low Pennsylvania rate. States that have franchises but no income tax—Florida, Tennessee, Texas and Washington—are indifferent. They do not gain revenue when athletes visit and they do not lose revenue when their athletes are taxed by other states because, of course, they grant no credits.

From the perspective of the players and their colleagues, the matter is rather different. Athletes who play for teams located in states with no income tax are the ones most affected by the jock tax. For them, every duty day spent in a jurisdiction with a jock tax is money out of pocket, with no credit against taxes at home. Meanwhile, they are paying the higher sales and property taxes usually found in states that do not tax income. Similarly, employees of professional franchises in states with a low income tax rate pay more when they visit high-tax states like California. Their home states will usually only credit them for the amount they would have paid at home.

Like all Californians with high incomes, professional athletes living there pay more in state income taxes than people living elsewhere because income tax rates in California are higher than in any jurisdiction with a pro franchise except Alberta and Puerto Rico. This means that when California athletes travel,

they are almost always paying less than they would at home, but California makes sure they never get a bargain on the road by taxing them the difference between the lower out-of-state rates and California's rate. Of course, they still have the burden of filing multiple tax returns. However, it does mean that California athletes do not pay much in extra jock taxes.

Jock Tax Examples

Concrete examples can help illustrate the impact and complexity of the jock tax. Houston Astro Octavio Dotel* earns a salary of \$2.8 million, which is \$500,000 above the league average for 2004 (see Table 3). He gets paid in a state without an income tax (Texas), so every penny that he has to pay in jock taxes this year is over and above what comparable earners in his home state are paying. For the 2004 MLB season, Octavio Dotel will not have to pay the jock tax on the 10 games, or 13 duty days, in Illinois, but will still have a jock tax bill of \$58,899.

Former Chicago Bears quarterback Kordell Stewart earned \$1.45 million last year, slightly above the NFL average. He did not have to pay the jock tax when he traveled to Seattle, Washington to play the Seahawks, but he still owed income taxes to Illinois for that portion of his income. In addition, he had to pay jock taxes in every other city or state that he traveled to, but still owed Illinois income tax on his entire income, so he was double taxed on a large portion of his 2003 salary. He paid an additional \$35,135 in income taxes last year, for a total of \$113,770.

Donald Brashear, left winger for the Philadelphia Flyers, also faces an inordinately high effective tax rate, but for a different reason. Because of the city earnings tax in Philadelphia, Donald Brashear's income is taxed by both the city of Philadelphia and the state of Pennsylvania at 7.63% (4.56% in Philadelphia plus 3.07% in Pennsylvania). His effective tax rate is even higher: when he travels to states that have higher income tax rates than Pennsylvania (every state but Illinois) he must pay the higher rate. He does receive a credit on his Pennsylvania income taxes for jock taxes paid out of state, but Philadelphia does not give him a credit on his local earnings tax. Philadelphia and the other five cities with local income taxes will grant credits only for jock taxes paid to other cities—not for jock taxes paid to other states. Mr. Brashear earns \$1.5 million annually, slightly below the NHL average, but his effective tax rate is the highest in the country

* Report went to press prior to Dotel's trade to the Oakland Athletics in June 2004.

when both state and local income taxes are taken into account. Over the 2003-04 NHL season, Donald Brashear paid an additional \$15,889 in state and provincial taxes alone, due to the jock tax.

Finally, Elton Brand, who earned \$4.9 million, or \$1 million above the NBA average in the 2003-04 season, would probably prefer to be taxed by other jurisdictions when he travels, due to the extremely high effective income tax rate in his home state of California. But whether he is on the road or at home, he cannot escape California's high tax rate. When he travels to a state with an income tax rate lower than California's, he must pay California the difference. Mr. Brand must pay roughly \$453,775 in state income taxes to California, even though he will be traveling half of the year.⁵ He will need to file about 30 state and local tax forms.

Why Are Professional Sports Franchises Such an Easy Target?

Regardless of all the jock tax's flaws, the income of professional athletes is an appealing tax base to state officials charged with raising revenue. There are three primary reasons: athletes have high incomes, out-of-state workers have no vote, and professional sports franchises must publicize their travel schedules and have almost no ability to move their location in response to an inequitable tax.

Setting aside for the moment all the middle-income people who are caught up in the jock tax, the total income of professional athletes is large and concentrated. The 3,574 athletes in the four U.S. professional sports leagues currently make roughly eight and a half billion dollars annually, an average of \$2.3 million per player. In total, that amount almost equals the total income earned by the 450,000

Table 3
Examples of the Complex State Income Tax Obligations of Professional Athletes 2003-2004

States Imposing a Jock Tax	Octavio Dotel (home state: Texas [†]) (salary: \$2,800,000)		Kordell Stewart (home state: Illinois) (salary: \$1,450,000)			Donald Brashear (home city: Philadelphia) (salary: \$1,500,000)			Total Taxes Paid
	Number of Games Played in Jock Tax States*	Jock Taxes Paid**	Number of Games Played in Jock Tax States*	Jock Taxes Paid**	Additional Taxes Paid***	Number of Games Played in Jock Tax States*	Jock Taxes Paid**	Additional Taxes Paid***	
Total	61	\$ 58,899	19	\$ 35,135	\$ 113,770	28	\$ 28,394	\$ 15,889	\$ 37,550
Alberta	-	-	-	-	-	-	-	-	-
Arizona	2	\$ 1,129	1	\$ 2,544	-	2	\$ 1,200	\$ 398	-
California	10	14,311	1	4,160	-	3	3,178	1,975	-
Colorado	3	2,408	1	3,357	-	1	871	470	-
Georgia	4	3,970	-	-	-	3	3,103	1,900	-
Illinois	***	***	9	-	\$ 78,635	-	-	-	-
Indiana	-	-	1	\$ 2,465	-	-	-	-	-
Louisiana	-	-	1	3,150	-	-	-	-	-
Maryland	-	-	-	-	-	-	-	-	-
Massachusetts	-	-	1	3,843	-	3	\$ 2,909	\$ 1,706	-
Michigan	-	-	1	\$ 2,973	-	1	\$ 750	\$ 349	-
Minnesota	-	-	1	4,882	-	1	979	578	-
Missouri	9	\$ 9,135	1	4,125	-	1	873	472	-
New Jersey	-	-	-	-	-	3	1,645	442	-
New York	3	3,165	-	-	-	7	8,374	5,566	-
North Carolina	-	-	-	-	-	2	\$ 2,433	\$ 1,631	-
Ohio	10	\$ 9,506	-	-	-	1	394	****	-
Oregon	-	-	-	-	-	-	-	-	-
Pennsylvania	11	5,321	-	-	-	-	-	-	\$ 21,661
Utah	-	-	-	-	-	-	-	-	-
Wisconsin	9	\$ 9,954	1	\$ 3,636	-	-	-	-	-
Puerto Rico	-	-	-	-	-	-	-	-	-

[^] Cities and non jock tax states are not included.

[†] Report went to press prior to Dotel's trade to the Oakland Athletics in June 2004.

* Duty days are calculated by multiplying the number of games played in each jurisdiction by either 1.2 for basketball and hockey, 1.3 for baseball, or 2 for football.

** Includes Illinois income taxes, since Illinois does not credit its own residents.

*** Illinois does not tax states that do not tax them, such as Texas.

**** Donald Brashear will owe the remaining \$7 to Pennsylvania.

Source: www.bskball.com, USA Today Baseball Salaries, Computations by Tax Foundation.

individuals in the farming, fishing, and forestry industries, whose average income is roughly \$20,000.⁶ Administratively, it is much easier to tax a concentrated pool of income. Normally, out-of-state visitors would be difficult to track, but unlike other professions that often make last-minute travel plans, sports franchises publicize their travel schedules years in advance.

Second, nonresident athletes are not voters, at least not in the jurisdictions levying the tax. Like all other U.S. citizens, professional athletes can register to vote in their home states only, leaving them with little or no political standing to complain about the tax. In fact, like all nonresident taxation, the jock tax would be considered by many a form of taxation without representation.

Third, from an economic perspective, professional athletes' labor supply is extremely "inelastic." Elasticity of labor supply refers to how easily a worker can decide where or when to work. A professional sports franchise, with all its employees, has very limited choice of where and when to work. If a game is on the schedule, the players on that team go to play in that venue. Professional athletes are appealing targets for high-tax states precisely because they cannot vote with their feet; they are a captive tax base that provides no resistance to the imposition or increasing of a tax.

Workers with a more elastic supply of labor can move more easily to avoid high taxes. Business executives, for example, often make as much money as athletes but can move their conventions and business meetings from one state to another in reaction to the local costs, including taxes. High-tax states have been taking advantage of the employees of professional sports franchises as a way to capture tax collections that they don't dare collect from people with more elastic labor supplies.

Table 4
Salary Ranges of Non-Athletic Members of Professional Athletic Teams 2004

Sports Instructors and Coaches	\$29,160 – \$500,000 +
Sports Broadcasters and Announcers	\$23,328 – \$2,000,000
Sports Physicians	\$116,823 – \$1,000,000+
Sports Scouts	\$18,746 – \$104,142
Sports Trainers	\$26,036 – \$81,600

Source: *Careers in Focus: Sports*, Ferguson Publishing Company.

Why the Jock Tax Is Bad Tax Policy

While legal "nexus" as currently defined certainly gives states the authority to levy jock taxes on visiting players, the argument for their doing so is weak. In fact, the jock tax is a case study in poor tax policy. It raises little revenue with a maximum of administrative effort by the targeted taxpayers. It violates any normal concept of fairness, imposing mind-boggling complexity on taxpayers who happen to travel as part of their work. Also, from an economic perspective, it misidentifies the source of professional athletes' income.

The Jock Tax Raises Little Revenue and Does It Inefficiently

When California first started collecting jock taxes, it raised far more revenue from each athlete than it raises now. Other states had not yet enacted the tax, so it was a one-way street. By and large, the other states have now retaliated, and for many states, jock tax collections and credits cancel each other out. This is especially true for states with lower tax rates. A state with a lower tax rate issues credits to its resident athletes for jock taxes paid out of state (with the exception of Illinois), but only up to the amount that the athletes would have paid in state. These credits roughly equal the amount of money that the state collects from visiting athletes. In general, a low-tax state raises money from the jock tax only when it deals with a state that has no income tax: when an athlete from a low-tax state visits a tax-free state, the low-tax state taxes his income without having to issue a credit. And of course, the low-tax state also taxes the athletes who visit from the tax-free state, so the low-tax state benefits financially no matter which direction the athlete is traveling. The four states with professional athletic teams and no state income tax account for only 13 percent of all professional athletic teams, so the notion that the jock tax generates significant revenue for the states is inaccurate, especially when the costs of administering and complying with the tax are considered.

Sports Franchise Employees Are No Different from Other Salaried Workers

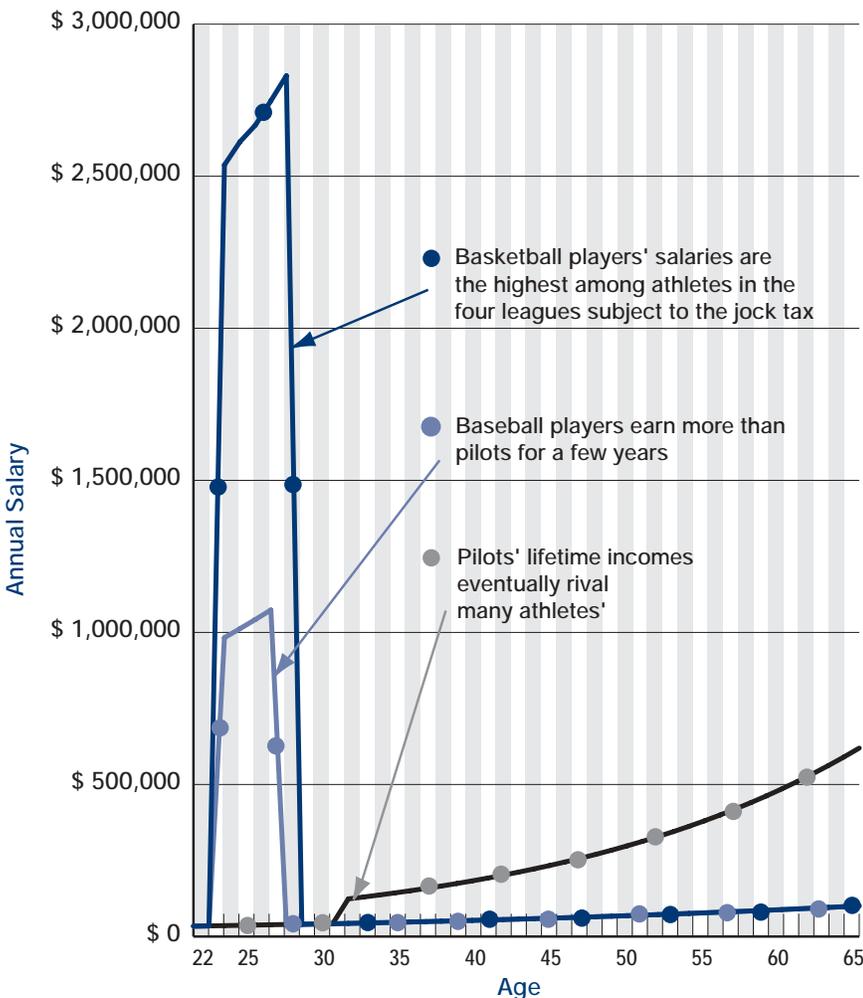
The athletes and their colleagues are like millions of people whose home offices are in one state but who travel to other states as part of their jobs. They include agents of the government, reporters and salesmen among many others; there's no end to the list of jobs that require interstate travel. According to current

Table 5
Statistical Comparison of the Incomes and Taxation of Athletes and Airline Pilots 2003

	Major League Baseball Player	NBA Basketball Player	Airline Pilot
Median salary	\$982,620	\$2,500,000	\$123,847
Number of Years Working (industry average)	4	5	35
Total income	\$4,110,916	\$12,836,923	\$10,535,288
Aggregate Standard Deductions	\$18,999	\$23,701	\$462,356
Total income taxed at top marginal rate	\$2,831,020	\$11,240,365	\$0
Percent of total income taxed at top marginal rate	68.8%	87.6%	0%
Total Taxes Paid	\$1,481,557	\$4,762,790	\$3,376,394
Lifetime Effective Tax Rate	36.0%	37.1%	32.1%

Sources: Bureau of the Census, Bureau of Labor Statistics, www.bskball.com, USA Today Baseball Salaries, and state tax forms and instructions. Computations by Tax Foundation.

Figure 2
Projected Lifetime Earnings of Airline Pilots, Major League Baseball Players and NBA Basketball Players



Sources: Bureau of Census, Bureau of Labor Statistics, www.bskball.com, and USA Today Baseball Salaries. Computations by Tax Foundation.

law, all of those people have “nexus” in the states they travel to; that is, the law in most states deems there to be sufficient connection, or nexus, between the location of the work and the income earned to justify taxation. Therefore, all traveling workers can be forced to file an income tax return in every state they work in, regardless of how short their stay and how fuzzy the calculation of the income they generated there.

Fortunately, state legislators and tax administrators have not enforced the filing of those millions of state income tax returns. Unfortunately, they are making an exception by passing and enforcing legislation uniquely targeted at athletes—the jock taxes—and there is abundant evidence that they are expanding their reach to other traveling workers. The overly broad interpretation of the nexus between income and taxation increases confusion and compliance costs for both taxpayers and tax collectors. Unless clarified, there is every likelihood that nonresident taxation will spread to other professions.

Many Low- and Middle-Income People Are Forced to Pay

The ostensible targets of the jock tax are the few athletes with extraordinarily high incomes, but the tax is actually levied on every single player, coach, scout or trainer traveling with the team. Starting salaries range from \$18,750 for a scout to \$117,000 for a team physician (see Table 4). Assistants can have incomes in the low six figures, and some head coaches and top managers earn over \$1 million, but there are only 121 head coaches or managers in the four major professional sports leagues.

Earnings in Other Professions Match Athletes' Earnings

Even most players, while certainly earning extremely high salaries for a few years, earn much less than the league average. Mean salaries for professional athletes range from \$1.4 million in football to \$3.9 million in basketball. However, median salaries range from \$525,000 in football to \$2.7 million in basketball. This discrepancy between mean and median incomes is due to the fact that a relatively small number of very well paid players skew the average up.

With regard to lifetime earnings, data from the Bureau of Labor Statistics show that there are other occupations with incomes that are comparable to or higher than those of professional athletes. The BLS reports that the median income for an airplane pilot in the United States is \$123,847 per year. Even if the pilot's

income increases only by inflation, he will earn \$10,919,006 over the duration of his career.⁷ The median baseball player's income is \$982,620 per year, and the average number of years at the major league level is four.⁸ If in his second career the former ballplayer earns the nation's median income of \$34,276 per year, he will make a total of \$6,655,107 over the course of his lifetime, adjusting for inflation (see Figure 2). This may even be an overly generous estimate since most former ballplayers turn to coaching high school sports, which pays less than the national median income.

Flows of money over time are compared by calculating their net present value. The pilot's typical lifetime income has a net present value of \$3,999,712, slightly lower than the baseball player's (\$4,563,897) and higher than that of the typical hockey player and the typical football player.⁹ Basketball players in the NBA earn significantly higher salaries and have longer careers than athletes in the three other major professional sports leagues, and therefore have noticeably higher net present values. The gap may narrow as the NBA salary cap applies to more and more players.

The Administrative Burden

In addition to the discriminatory aspect of the jock tax, another major problem is the administrative burden of complying with the tax. Today, roughly 30 state, local and foreign income tax forms are filed by each athlete or traveling member of the team. Compliance costs are "fixed," i.e., the same for everyone, so while the high-paid superstar athletes can afford to burden a personal accountant with extra forms, some of the lower-paid athletes and most of the other traveling employees of the team are unfairly burdened by the requirement to file so many returns. Previous Tax Foundation research has confirmed that the administrative burden of filing tax returns is proportionately more difficult for lower-income wage earners.¹⁰

Athletes Earn Their Money at Home, Not on the Road

Finally, with respect to a technical objection to the jock tax, it should be noted that the incidence of the tax is not effectively aligned with the economic activity that produces the income. Professional sports teams derive their revenue from various sources, including ticket sales, broadcasting rights, and merchandising contracts. While there is some revenue sharing among franchises in some leagues, the vast majority of these economic activities are focused within the team's home state.¹¹ Thus,

the revenues out of which a professional athlete receives his salary are earned through economic transactions in his team's home state, not in the other states in which he performs. An athlete makes the same money whether he travels with the team and plays every minute or skips the road trip entirely.

Conclusion: Abolish the Jock Tax

The jock tax started in 1991 when California's state lawmakers sought revenge on a basketball team that had won a title they wanted for their own state. Today, 20 states and half a dozen cities, as well as Puerto Rico and Alberta, have some form of the jock tax to extract revenue from people who work in their jurisdiction just a few days of the year. Because some professional athletes earn famously high salaries and are locked into playing games when and where their league's schedule dictates, they are an easy target for lawmakers in search of additional tax collections.

One especially dangerous expansion of the tax is the establishment of separate tax rates for income in different professions. In Alberta, Canada, the jock tax is levied at the separate, higher rate of 12.5 percent of income, compared to the 10-percent rate that other residents of Alberta pay. In Puerto Rico, the jock tax is a 20-percent income tax levied only on members of professional baseball teams traveling to San Juan to play against the Expos. An effort to establish such a separate rate in Colorado in 2002 fortunately failed.

The jock tax has been spreading beyond the world of professional athletics to other occupations. Many jurisdictions that recognize the jock tax are now taxing entertainers, New Jersey is now taxing visiting attorneys, and Cincinnati is imposing its tax on skateboarders. Cincinnati has even proposed extending the tax to all workers who enter the city. In Missouri, state officials are creating a constituency for higher jock taxes by "earmarking" the revenue. The jock taxes on St. Louis and Kansas City franchises are now the main source of funding for five programs in the state, with 60 percent of the revenue going to the Missouri Arts Council Trust Fund and the remainder to four programs for libraries, public television, historic preservation and the humanities. So far, jock tax collections after credits have not equaled the planned budgets, and this funding linkage will undoubtedly create pressure to expand the tax.¹²

These applications and proposed applications of the jock tax show the direction it may

well take in the future. A tax that started as a petty attack on Michael Jordan is becoming a major problem for thousands of taxpayers.

A reasonable approach to nonresident taxation would not include jock taxes. All employees of professional sports franchises are salaried employees who should be paying all their state and local income taxes in one state, or two at the most, just like all other salaried workers. If an athlete lives in the same state as his home team, then clearly he would file only one state tax return. If he lives in a different state from his employer, then he might file two returns, and the allocation of his income and taxes would be subject to any agreements between those states.

The only “harm” that would result from eliminating the jock tax would be a slight loss of revenue in some high tax states—slight because credits to residents currently cancel out most of the collections from visitors. The benefits would clearly outweigh this small revenue loss. Athletes and their moderate-income colleagues—scouts, assistant coaches, support staff, etc.—would not be singled out for unfair treatment, a great deal of unproductive tax paperwork would be eliminated, and the states’ income tax systems would be operating on a more principled basis.

The jock tax sets a dangerous precedent because it violates several principles of good taxation. Most notably, it is a discriminatory tax, levied on only a select group of occupations. Among the four leagues whose members pay the tax, it has spread from the athletes to all the traveling employees of their teams, including the announcers, trainers, and scouts, and is currently spreading to lesser-known professional athletes and to other entirely unrelated professions. Although many of the targets earn extremely high wages, many comparable earners, such as business executives and doctors, do not have to pay the tax—at least not yet.

Administratively, a well designed tax is relatively simple for the taxpayer to comply with and for the state to administer. The jock tax is preposterously complex, requiring individuals to file as many as 30 state and local tax returns.

Finally, from an economic perspective, the argument for a logical nexus between the athletes’ salaries and their out-of-state travel is weak. The economic activities that determine an athlete’s salary occur almost entirely in the home state of the franchise.

For all these reasons, lawmakers should look to their own residents and workers for tax revenue.

Notes

- ¹ Athletes are considered residents of the jurisdiction where their team is based or headquartered.
- ² “Jock Tax Displeases Baseball,” May 16, 2003, p.1, Washington Times.
- ³ Many states have some form of reciprocal income tax agreement, meaning that employees working in a neighboring state would be liable for the income tax in the state where they reside, not where they work.
- ⁴ Arizona is the only state that does not consider preseason games to be duty days; Cleveland only considers scheduled games to be duty days; and Minnesota taxes postseason duty days differently than preseason and regular season duty days. See SFX Sports for more information on the apportionment of income.
- ⁵ The Tax Foundation does not have access to athletes’ tax returns, so the dollar amounts listed as paid in jock taxes are estimates.
- ⁶ Numbers are based on the 2001 National Cross-Industry estimates of Employment and Mean Annual Wage for SOC Major Occupational Groups.
- ⁷ Lifetime income is measured on a 44-year working period from the age of 22 until retirement at the age of 65. The baseball player plays professionally from the age of 24 until the age of 28, while the airline pilot flies professionally between the ages of 27 and 54. The remaining years are filled in by the Bureau of the Census’s estimate of national median income.
- ⁸ In 2003, the average career lengths for professional athletes ranged from only 3.5 years in the NFL to 4.9 years in the NBA.
- ⁹ Net present value figures take into account a discount rate of 2.1 percent (average GDP Price Index forecast by Congressional Budget Office, the Office of Management and Budget, and the March Blue Chip).
- ¹⁰ Moody, J. Scott, “The Cost of Tax Compliance,” Testimony before the House Committee on Ways and Means, Tax Foundation Special Brief, July 2001.
- ¹¹ In the NBA and NHL, 100 percent of ticket receipts are kept by the home team. In baseball, the American League teams get 80 percent of home ticket sales, while home teams in the National League get 90 percent of ticket sales in their own venue. In the NFL, teams do share receipts from low-cost ticket sales, with the home team getting 60 percent of ticket sales. Receipts collected from the most expensive seats in a venue are not shared between teams. See William H. Baker, “Taxation and Professional Sports – A Look Inside the Huddle,” *Marquette Law Journal*, Spring 1999, 9 (2), page 297. See also Eric A. Thornton, CFA, Willamette Management Associates.
- ¹² Missouri Library Association Legislative Agenda 2003. See www.molib.org.



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