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SPECIAL REPORT

July 2003
No. 123

State and Local Income Taxation of Nonresident Athletes Spreads to Other Professions

Lawyers Join Growing List of Professions Targeted by State Tax Collectors

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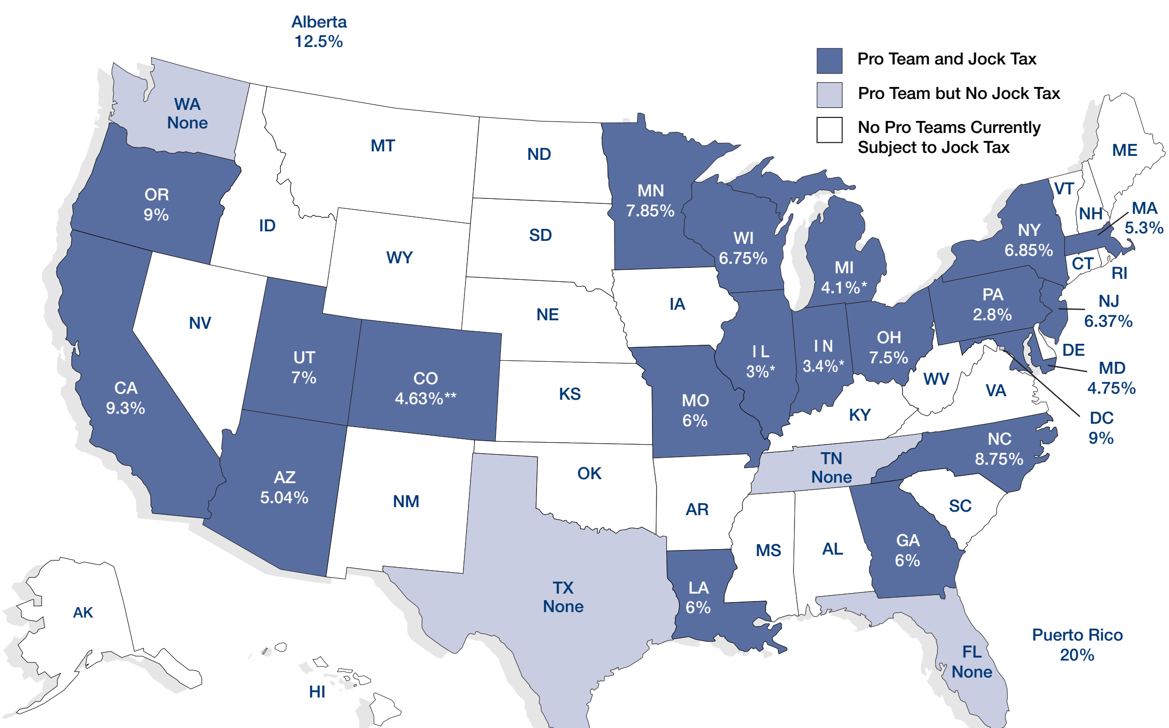
Introduction

When the 2003 Major League Baseball All-Star Game is played July 15 at U.S. Cellular Field in Chicago (a.k.a. New Comiskey), most people will be paying attention to the players, the game, and the surrounding festivities. But at least a few Illinois state tax officials will have to keep track of the players' salaries and make sure they fill out the proper individual income tax forms to pay the "jock tax."

Even though the visiting players, coaches and support staff are just like anyone else whose work brings them to Illinois, the tax

Figure 1
Top Tax Rates on Wages and Salaries in Locations with Professional Sports Franchises
As of June 30, 2003



* Tax base is federal AGI with modifications.
** Tax base is federal taxable income.
See Table 2 for more details.

law treats them differently. It requires all visiting athletes and other team employees to pay Illinois income taxes for the day of the game, as well as the rest of the weekend if spent in Illinois. The tax is due whether a player sets foot on the field or not.

The total take for Illinois on July 15 is estimated to be over $45,000 from the players alone. Forty-five players will owe jock taxes ranging from Manny Ramirez's $2,455.03 to Mike MacDougal's $43. But even these figures understate the "gate" because they don't count either the support staff for the American and National Leagues or the days before and after game day. The entire All-Star Weekend will be counted as "duty days" by Illinois and therefore subject to Illinois's jock tax.

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.[1] 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's 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. The District of Columbia

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

Table 1
Salaries and Jock Taxes of Major League Baseball All-Star Game Participants
2003

American League Players	Annual Salary	Salary Per Duty Day	All-Star Jock Tax	National League Players	Annual Salary	Salary Per Duty Day	All-Star Jock Tax
Carlos Delgado	$ 18,700,000	$ 89,048	–	Shawn Chacon	$ 300,000	$ 1,428	$ 43
Jason Giambi	11,428,571	54,422	$ 1,633	Todd Helton	10,600,000	50,476	1,514
Jason Varitek	4,700,000	22,447	673	Kerry Wood	6,190,000	29,476	884
Alfonso Soriano	800,000	3,810	114	Marcus Giles	316,500	1,507	45
Bret Boone	8,000,000	38,095	–	Jose Vidro	5,500,000	26,190	–
Troy Glaus	$ 7,250,000	$ 34,524	$ 1,036	Scott Rolen	$ 7,625,000	$ 36,310	$ 1,089
Hideki Matsui	6,000,000	28,571	857	Mike Lowell	3,700,000	17,619	–
Alex Rodriguez	22,000,000	104,762	–	Edger Renteria	6,500,000	30,952	929
Nomar Garciappara	10,500,000	50,000	1,500	Rafael Furcal	2,200,000	10,476	314
Ramon Hernandez	1,887,500	8,988	270	Mark Prior	1,450,000	6,905	207
Jorge Posada	$ 4,175,550	$ 19,884	$ 597	Javier Lopez	$ 7,000,000	$ 33,333	$ 1,000
Vernon Wells	520,000	2,476	–	Geoff Jenkins	5,187,500	24,702	741
Hank Blalock	302,500	1,440	–	Barry Bonds	15,000,000	71,429	2,143
Edgar Martinez	4,000,000	19,048	–	Russ Ortiz	4,662,500	22,202	666
Manny Ramirez	17,185,177	81,834	2,455	Gary Sheffield	11,416,667	54,365	1,631
Carl Everett	$ 9,150,000	$ 43,571	$ 1,307	Albert Pujols	$ 900,000	$ 4,286	$ 129
Ichiro Suzuki	4,697,000	22,367	–	Jim Edmonds	8,333,333	39,683	1,190
Garrett Anderson	5,350,000	25,476	764	Luis Gonzalez	4,000,000	19,048	571
Barry Zito	1,000,000	4,762	143	Randy Wolf	2,375,000	11,310	339
Dmitri Young	6,750,000	32,143	964	Armando Benitez	6,937,500	33,036	991
Melvin Mora	$ 1,725,000	$ 8,214	$ 246	Andruw Jones	$ 12,000,000	$ 57,143	$ 1,714
Esteban Loaiza	500,000	2,381	71	Kevin Brown	15,714,286	74,830	2,245
C.C. Sebathia	1,100,000	5,238	157	Jason Schmidt	5,937,500	28,274	848
Brendan Donnelly	325,000	1,548	46	Eric Gagne	550,000	2,619	79
Roy Halladay	3,825,000	18,214	–	John Smoltz	10,666,667	50,794	1,524
Keith Foulke	$ 6,000,000	$ 28,571	$ 857	Billy Wagner	$ 8,000,000	$ 38,095	–
Eddie Guardado	2,700,000	12,857	386	Paul LoDuca	2,636,667	12,556	$ 377
Lance Carter	300,000	1,429	–	Richie Sexson	5,125,000	24,405	732
Shigetoshi Hasegawa	1,800,000	8,571	–	Aaron Boone	3,700,000	17,619	529
Mike MacDougal	301,000	1,433	43	Woody Williams	5,464,228	26,020	781
Mark Mulder	$ 2,650,000	$ 12,619	$ 379	Preston Wilson	$ 6,500,000	$ 30,952	$ 929
Jamie Moyer	6,500,000	30,952	–	Rondell White	5,500,000	26,190	786
Total	$ 172,122,298	$ 819,630	$ 14,497	Total	$ 191,988,348	$ 914,230	$ 24,970

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

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), National Basketball Association (NBA), the National Hockey League (NHL) and Major League Baseball (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, and anxious state tax collectors are scrounging for revenue.

The Special Case of Illinois

On July 15th, most players and support staff will be subject to the jock tax in Illinois,

The jock tax has proven to be deceptive because it masquerades as a tax that only affects multi-millionaire superstars.

but not every player will be paying. For example, super-paid Texas Ranger superstar Alex Rodriguez, who paid more jock taxes than any other player at last year's All-Star Game, will not have to pay the tax because Illinois's jock tax is retaliatory, hitting only residents of states that tax Illinois residents. Texas has no state income tax and does not tax Illinois's athletes, so Illinois will return the favor to Rodriguez. Seventeen players on the All-Star roster play for teams in states or provinces without a jock tax, and therefore will not have to pay Illinois taxes for their moment of glory under the lights (see Table 1). 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 last year at this time, when Sammy Sosa and Paul Konerko traveled to the 2002 All-Star Game in Milwaukee, they not only paid Wisconsin's jock tax, but then had to turn around and pay Illinois taxes on that same income. This double taxation occurs every time the employees of Illinois franchises hit the road. Since Illinois's professional athletes play more than half of their away games in states that levy a jock tax, that is a hefty amount of extra taxes.

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

Professional athletes are a tempting target 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 importantly, 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, income tax on that 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 count up all out-of-state income earned by its 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 but only up to the amount they would have paid in Pennsylvania. Either way the players lose. And as explained above, Illinois's 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.

Many doctors, lawyers and executives have lifetime earnings that match athletes', but they do not have to pay state income taxes in every state where they may travel while working.

Besides, for athletes, the nexus between the income earned and the location of 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 what 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 their employers are located or where the individuals live. This change would not cost states much revenue because credits currently cancel out most of the collections. Athletes and their unfortunate moderate-income colleagues — scouts, coaches and support staff – 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 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 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 stars.[2] Currently, New Jersey is the only state to extend the jock tax to out-of-state lawyers.

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.[3]

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 whatever they make each day (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.

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 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 when the team stays over in a particular jurisdiction.[4] For example, when a baseball player or a

Table 2
Individual Income Tax Rates in States with NFL, NBA, NHL or Major League Baseball Franchises
As of December 31, 2002

	Federal Deductibility	Marginal Rates and Tax Brackets for Single Filers (a)	Standard Deduction		Personal Exemptions	
			Single	Joint	Single (b)	Dependents
Arizona	No	2.87% > $0; 3.20% > $10K; 3.74% > $25K; 4.72% > $50K; 5.04% > $150K	$ 3,600	$ 7,200	$ 2,100	$ 2,300
California	No	1% > $0; 2% > $5,834; 4% > $13,829; 6% > $21,826; 8% > $30,298; 9.3% > $38,291 (k)	$ 3004 (k)	$ 6,008 (k)	$ 80 (c)(k)	$ 251 (c)(k)
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 (g)	$ 1,000
Maryland	No	2% > $0; 3% > $1K; 4% > $2K; 4.75% > $3K	$2,000 (h)	$ 4,000 (h)	$ 1,850	$ 1,850
Massachusetts	No	5.3%	n.a.	n.a.	$ 4,400	$ 1,000
Michigan	No	4.1% of federal AGI with modification	n.a.	n.a.	$ 2,900	$ 2,900
Minnesota	No	5.35% > $0; 7.05% > $18,710; 7.85% > $61,460	$ 4,700 (l)	$ 7,850(l)	$ 3,000 (l)	$ 3,000 (l)
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	$ 4,700 (l)	$ 7,850(l)	$ 2,100	$ 1,200
New Jersey	No	1.4% > $0; 1.75% > $10K; 2.45% > $25K; 3.5% > $35K; 5.525% > $40K; 6.37% > $75K	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	$ 7,500	$ 13,000	n.a.	$ 1,000
North Carolina	No	6% > $0; 7% > $12,750; 7.75% > $60K; 8.25% > $120K	$ 3,000	$ 5,000	$ 2,500 (i)	$ 2,500 (i)
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.	$ 1,150 (e)	$ 1,150 (e)
Oregon	Yes	5% > $0; 7% > $2,500; 9% > $6,300	$ 1,800	$ 3,000	$ 142 (c) (k)	$ 142 (c) (k)
Pennsylvania	No	2.8%	n.a.	n.a.	n.a.	n.a.
Tennessee	No	6% (f)	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% > $750; 4.2% > $1,275; 5.2% > $2,250; 6% > $3K; 7% > $3,750	4,550	$ 7,600	$ 2,175 (j)	$ 2,175 (j)
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% > $10K; 9% > $30K	$ 2,000	$ 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) Applies to interest and dividend income only.
(g) Standard deduction and personal exemptions are combined: $4,500 for single and married filing separately; $9,000 married filing jointly and head of household.
(h) 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.
(i) Exemptions are based on federal standards deductions but are adjusted according to income and filing status.
(j) Three-fourths federal exemption.
(k) Indexed for inflation.
(l) 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 detal, see *Tax Foundaton Special Report,* No. 121, “State Tax Collections and Rates” (available at www.TaxFoundation.org/statefinance.html).

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 their annual salaries, 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 work days, 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 that he travels to will consider his income to be $9,524 times the number of duty days spent in that state.

Extra Taxation, and in Some Cases, 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.

But one state, Illinois, does not give credits, 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 California income taxes owed 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

Table 3
The Complex State Income Tax Obligations of Three Professional Athletes
2002–2003

	Anthony Carter (home state: Florida) (salary: $3,650,000)		Jack Del Rio (home state: Florida) (salary: $750,000)		Dusty Baker (home state: Illinois) (salary: $4,000,000)		
States Imposing a Jock Tax	Number of Games Played in Jock Tax States*	Jock 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***
Total	30	$ 66,948	7	$ 13,077	65	$ 102,900	$ 222,900
Arizona	1	$ 2,951	–	–	3	$ 2,848	–
California	4	26,598	–	–	9	18,800	–
Colorado	1	3,540	–	–	3	3,538	–
Georgia	3	2,104	1	2,060	3	4,267	–
Illinois	–	–	–	–	–	–	120,000
Indiana	1	$ 1,300	1	$ 1,275	–	–	–
Louisiana	2	–	–	–	–	–	–
Maryland	–	–	1	1,988	3	3,476	–
Massachusetts	2	2,237	1	1,729	–	–	–
Michigan	3	1,606	–	–	–	–	–
Minnesota	1	$ 5,219	1	$ 2,326	–	–	–
Missouri	–	–	–	–	7	10,175	–
New Jersey	2	761	1	1,202	–	–	–
New York	2	1,842	–	–	3	4,692	–
North Carolina	–	2,549	1	2,498	–	–	–
Ohio (Cincinnati and Cleveland)	2	$ 1,258	–	–	10	$ 15,078	–
Oregon	1	6,711	–	–	–	–	–
Pennsylvania	2	1,071	–	–	13	9,013	–
Utah	1	5,232	–	–	–	–	–
Wisconsin	2	1,970	–	–	7	11,203	–
Puerto Rico	–	–	–	–	4	$ 19,810	–

* The tax is not actually charged per game, but per "duty day." Duty days for baseball are calculated by mutliplying the number of games played in each jurisdiction by 1.3. For basketball and hockey, the multiplier is 1.2, and it is 2.0 for football.

** This is the amount of income taxes paid to state and local income taxes outside of the person's home state. Because Carter and Del Rio live in Florida where there is no income tax, out-of-state jock taxes are their entire state and local income tax liability.

*** "Additional Taxes" is the amount paid over and above what he would have owed if Illinois taxed all his income to the exclusion of other states.

Sources: www.bskball.com and USA Today Baseball Salaries. Computations by Tax Foundation.

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, 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 of two NHL hockey franchises, the Edmonton Oilers and 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 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 income tax rates. For example, 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 the other states.

Table 4
Salary Ranges of Non-Athletic Members of Professional Athletic Teams
2003

Instructors and Coaches	\$28,560 – \$500,000+
Broadcasters and Announcers	\$22,848 – \$2,000,000
Physicians	\$114,240 – \$1,000,000+
Scouts	\$18,360 – \$102,000
Trainers	\$25,500 – \$81,600

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

Meanwhile, states with low income tax rates, like Pennsylvania with its 2.8 percent rate, 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 don't 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 they 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.

Three Jocks

Three concrete examples will best illustrate the impact of the jock tax. Anthony Carter of the Miami Heat earns an annual salary of \$3.65 million, which is closer than any other basketball player's salary to the average NBA salary, \$3.7 million. Jack Del Rio, the new head coach for the Jacksonville Jaguars earns \$750,000 per year, and is the lowest paid head coach in the league. Finally, Dusty Baker, the former manager of the National League Champion San Francisco Giants, now the new manager of the Chicago Cubs, earns \$4 million per year, which is slightly above the average salary for MLB managers.

Carter and Del Rio both get paid in states without an income tax, so every penny that they will pay in jock taxes this year is over and above what comparable earners in their home states are paying. Dusty Baker, who recently moved from working in the high income tax state of California to one of the lowest, Illinois, will not be saving as much in income taxes as one might expect, because the effective jock tax rate of 5.6 percent is substantially higher than the 3 percent rate that other Illinoisans are subject to (see Table 3).

Over the 2002-03 NBA season, Anthony Carter paid state income taxes on 30 of the 90 games that his Miami Heat participated in, even though he works in Florida, a state that does not tax income. Altogether, he was taxed on 36 duty days. Because of the jock tax, Anthony Carter paid an additional $66,948 in state income taxes over the season. In total, Carter paid taxes to 16 of the 20 states that have a jock tax. He had no games in Maryland, Missouri or North Carolina; and Illinois did not enforce its retaliatory jock tax on him because his home state of Florida does not tax visitors from Illinois. He played either one or two games in each state that taxed him, except for Georgia and Michigan, where he played three games a piece. Carter paid the most in jock taxes to California where he played 4 games and paid an additional $26,598 in taxes.

Jack Del Rio can expect to pay state income taxes based on 7 of the 20 games (14 of the 40 duty days) in which his new team, the Jacksonville Jaguars participate. This estimate includes preseason and regular season, but if the Jaguars make the postseason, the number of games, duty days, and jock taxes owed will rise. Altogether, he will owe taxes in 7 of the 20 jock tax states for a total of $13,077 in additional income taxes this year.

New Chicago Cubs manager Dusty Baker illustrates the case of a jock tax payer whose home state has a relatively low tax rate on income. He spends approximately 40 percent of his time while traveling, paying jock taxes on most of that, and he will not receive a credit in Illinois for any portion of those jock taxes paid. Therefore, on his $4 million salary in 2003, he can expect to pay $120,000 to Illinois in state individual income taxes and an additional $102,900 in jock taxes to other states and localities for 65 games (85 duty days). This amounts to a total tax bill of $222,900. Thus, Baker's total state income tax burden was increased by 86 percent due to the jock tax. Even if Illinois followed the practice of other states, granting him credit for jock taxes paid elsewhere up to the amount of he would have paid in Illinois, his tax bill would still be $174,329, a 45 percent surcharge for being a member of a targeted profession.[5]

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 just over eight billion dollars annually, an average of $2.2 million per player. In total, that's almost as much income as is earned by the 453,050 individuals in the farming, fishing, and forestry industries, whose average income is $19,630.[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.

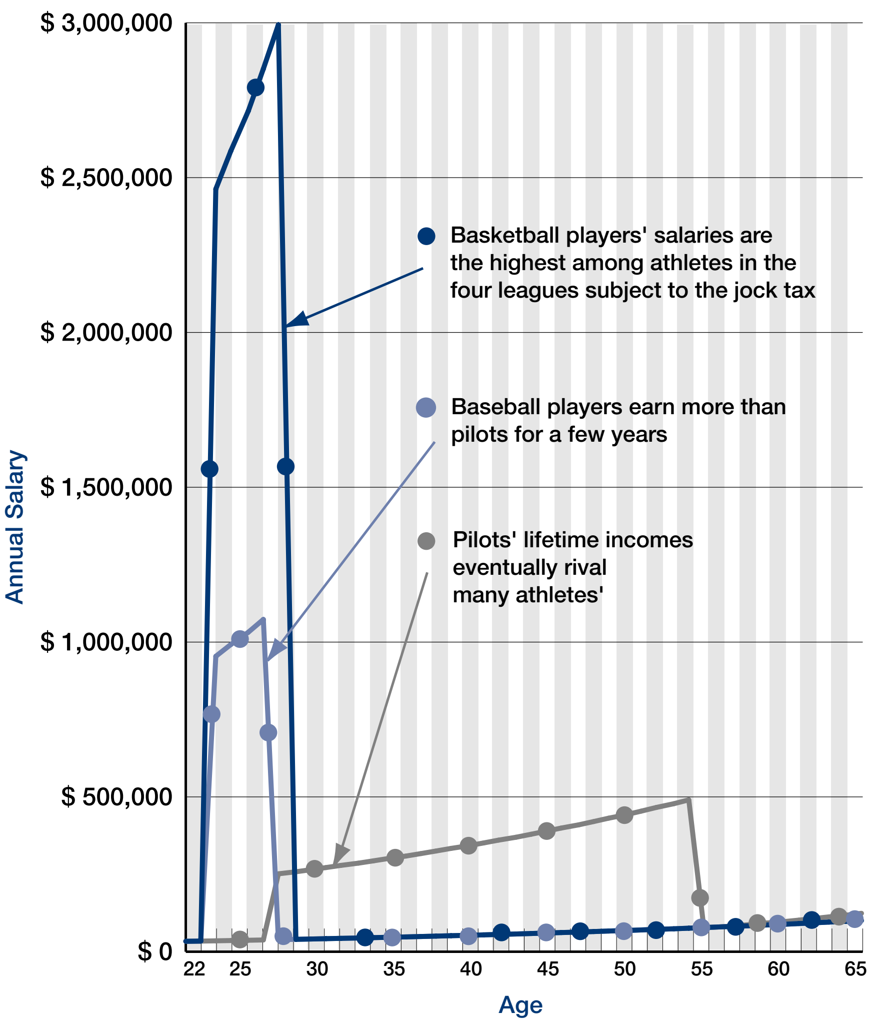
Workers with a more elastic supply of labor can move more easily to avoid high taxes. Business executives, for example, often make as much as athletes but can move their conventions and business meetings from one state to another in reaction to the local costs, including taxes. High-tax states have been taking advantage of the employees of profes-

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

	Major League Baseball Player	NBA Basketball Player	Airline Pilot
Annual salary (industry average)	$2,300,000	$3,700,000	$251,604
Number of Years Working (industry average)	4	5	26
Total income	$9,200,000	$18,500,000	$6,541,704
Aggregate Standard Deductions	$19,371	$24,458	$264,316
Total taxable income	$9,180,628	$18,475,541	$6,277,387
Total income taxed at top marginal rate	$7,932,828	$16,915,791	$0
Percent of total income taxed at top marginal rate	86.2%	91.4%	0.0%
Total Taxes Paid	$2,939,510	$6,806,179	$1,480,687
Lifetime Effective Tax Rate	31.95%	36.79%	22.63%

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.

sional sports franchises as a way to capture tax collections that they don't dare collect from people with more elastic labor supplies.

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 adminstrative 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 does now. Other states hadn't enacted them, 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 almost cancel out. This is especially true for states with lower tax rates, which really only generate jock tax revenue from employees of teams in the four states without income taxes: Texas, Florida, Tennessee and Washington. These four states 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.

Employees of Sports Franchises Are No Different from Other Salaried Workers

The athletes and their colleagues are like millions of people whose home office is in one state but who travel to other states as part of their jobs. Agents of the government, reporters, salesmen: there's no end to the list of jobs that require interstate travel. According to current law, all of those people have "nexus" in the states they travel to; that is, the law 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. It is bad for the country that the nexus between income and taxation has developed in this overly broad way, but 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.

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 for some of these occupations range from $18,600 for a scout to $115,500 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.

One especially dangerous expansion of the jock tax is the establishment of separate tax rates for income in different professions. In Alberta, the jock tax is 12.5 percent of income, compared to 10 percent for other residents. An effort to establish such a separate rate in Colorado in 2002 fortunately failed.

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 $1.10 million in football to $3.71 million in basketball. However, median salaries range from $510,000 in football to $2.57 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.

Looking at lifetime earnings, the Bureau of Labor Statistics shows that there are other occupations that make comparable or higher incomes than professional athletes. The BLS reports that the median income for an airplane pilot in the United States is $251,604 per year. Even if the pilot's income increases only by inflation, he will earn $10,972,535 over the length of his career.[7] The median income of the average baseball player is $954,000 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 $33,604 per year, he will make a total of $6,595,318 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 lower 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 $4,175,125, slightly lower than the football player's, $4,273,269. The typical hockey player's net present value is $6,589,102, while the typical baseball player's lifetime income has a net present value of $9,160,257.[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. This will change in the next few years, as a glass ceiling has been created in the NBA, so salaries will drop rapidly.

The Administrative Burden

In addition to the discriminatory aspect of the jock tax, another major problem with the jock tax is the administrative burden of complying with the tax. Today, over 20 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, in the way of 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. This demonstrates how tenuous the connection is between his income and the out-of-state location.

Conclusion: Abolish the Jock Tax Before It Spreads Further

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, 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 just a few days of the year. Because some professional athletes are famously high-paid and essentially 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. New Jersey is now taxing visiting attorneys. Cincinnati is imposing its municipal income tax on entertainers and has even proposed extending it to all workers that enter the city. In Missouri, state officials are creating a constituency for higher jock taxes by "earnmarking" 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. Thus far, jock tax collections after credits have not equaled the planned budgets, and this funding linkage will undoubtedly create pressure to expand the jock tax.[12]

These proposals show the direction that the jock tax may go. 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 this change 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. Athletes and their unfortunate 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 20 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 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.

3 "Jock Tax Displeases Baseball," May 16, 2003, p.1, *Washington Times.*

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 1.9 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.

TAX FOUNDATION 65 YEARS

SPECIAL REPORT (ISSN 1068-0306) is published at least 6 times yearly by the Tax Foundation, an independent 501(c)(3) organization chartered in the District of Columbia.

4–12 pp.
Annual subscription: $50
Individual issues $10

The Tax Foundation, a nonprofit, nonpartisan research and public education organization, has monitored tax and fiscal activities at all levels of government since 1937.

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