

## The National Football League's Tax-Exempt Status

Surprisingly, an organization that brings in over \$9.5 billion in annual revenue, charges the public \$2,600 for Super Bowl tickets,<sup>1</sup> and pays approximately \$53.6 million annually to eight individuals pays no taxes.<sup>2</sup> The National Football League (NFL) office is a 501(c)(6).<sup>3</sup> Interestingly 501(c)(6) of the IRC specifically includes an exemption for “professional football leagues.”<sup>4</sup> Lobbying efforts in the 1960s resulted in specifically including football leagues in 501(c)(6).<sup>5</sup>

Some call the NFL's corporate structure a “glorified tax shelter.”<sup>6</sup> Here is how it works. The NFL operates two for-profit companies, NFL Properties and NFL Enterprises.<sup>7</sup> These companies operate the NFL Network, and sell apparel licensing and other media rights.<sup>8</sup> The revenue from these activities is passed onto the 32 teams.<sup>9</sup> The teams are operated for profit,<sup>10</sup> and pay approximately \$192 million in “dues and assessments” to the 501(c)(6) league office.<sup>11</sup> The team's dues and assessments are tax-

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<sup>1</sup> <http://www.businessweek.com/articles/2013-09-19/a-republican-senator-s-lonely-mission-to-make-the-nfl-pay-taxes>

<sup>2</sup> [http://www.huffingtonpost.com/brian-frederick/nfl-tax-exempt\\_b\\_1321635.html](http://www.huffingtonpost.com/brian-frederick/nfl-tax-exempt_b_1321635.html)

<sup>3</sup> Andrew B. Delaney, *Taking a Sack: The NFL and its Undeserved Tax-Exempt Status*, Sports & Ent. L.J., 2010.

<sup>4</sup> IRC § 501(c)(6) (providing tax-exemption for “Business leagues, chambers of commerce, real-estate boards, boards of trade, or professional football leagues (whether or not administering a pension fund for football players), not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual”).

<sup>5</sup> *Supra* note 2.

<sup>6</sup> *Supra* note 3.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> *See id.*

<sup>10</sup> *Id.* The Greenbay Packers are operated as a nonprofit.

<http://www.newyorker.com/online/blogs/sportingscene/2011/01/those-non-profit-packers.html>

<sup>11</sup> *Supra* note 2.

deductible.<sup>12</sup> Therefore, every year teams get a \$192 million tax write off, while the NFL gets the same \$192 million as tax-free income.<sup>13</sup>

What the league office does with this money is even more concerning than the corporate structure itself. It uses its income to pay for the following 1) expenses like rent and overhead, 2) excessive salaries to individuals, 3) a stadium-financing program.<sup>14</sup> In 2009, the league office paid \$53.6 million to eight individuals.<sup>15</sup> It also paid 296 salaries over \$100,000.<sup>16</sup> The stadium-financing program “is something that only Bernie Madoff’s mom could love.”<sup>17</sup> Without getting into the details of that program, the NFL essentially functions like a bank by issuing league-backed bonds to finance new stadium construction.<sup>18</sup> Throughout this financing process, however, the NFL blacks out fans, forces fans to pay for personal seat licenses, and extorts money from municipalities by threatening to move teams.<sup>19</sup> Essentially, the public taxpayers and the fans end up fronting almost the entire bill for a new stadium.<sup>20</sup>

The NFL should not qualify for tax-exempt status. The original purpose of 501(c)(6) was to exempt “an organization whose primary purpose is to further the industry or profession it represents.”<sup>21</sup> However, the NFL is only furthering a segment of the industry.<sup>22</sup> Also, no part of the organization’s earnings “may inure to the benefit of any private shareholder or individual” and it may not be “engaged in an activity

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<sup>12</sup> *Supra* note 3. See also <http://www.irs.gov/publications/p557/ch04.html>.

<sup>13</sup> *Supra* note 3.

<sup>14</sup> *Supra* note 2.

<sup>15</sup> *Id.*

<sup>16</sup> *Supra* note 3.

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> *Supra* note 2.

<sup>20</sup> *Supra* note 3.

<sup>21</sup> [http://espn.go.com/nfl/story/\\_/id/9342479/examining-nfl-tax-exempt-status-challenged-us-senator-tom-coburn](http://espn.go.com/nfl/story/_/id/9342479/examining-nfl-tax-exempt-status-challenged-us-senator-tom-coburn)

<sup>22</sup> *Id.*

ordinarily carried on for-profit.”<sup>23</sup> Paying such excessive salaries is private inurement. Therefore, it is questionable whether the NFL should have qualified for tax exemption and should continue to qualify.

Oklahoma Senator Tom Coburn agrees. On September 18, he introduced a bill that would strip the NFL of its tax-exempt status.<sup>24</sup> The bill would prohibit professional sports organizations with annual revenue of more than \$10 million from filing as nonprofits.<sup>25</sup> Estimates predict that closing this “loophole” would generate \$91 million tax-dollars annually.<sup>26</sup> However, it is unclear whether Coburn will succeed. NFL will surely lobby against this bill; last year it devoted about \$2 million to lobbying.<sup>27</sup> The NFL’s lobbying pressure is likely already affecting the legislative process. Earlier this year, Senator Coburn unsuccessfully tried to close this loophole with an amendment to the Marketplace Fairness Act.<sup>28</sup> And despite Senator Coburn’s “extensive outreach” he has yet to find a co-sponsor for the standalone bill introduced in September.<sup>29</sup>

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<sup>23</sup> *Supra* note 2.

<sup>24</sup> *Supra* note 1.

<sup>25</sup> *Id.*

<sup>26</sup> *Supra* note 21.

<sup>27</sup> *Id.* (quoting openSecrets.org)

<sup>28</sup> *Supra* note 1. The amendment passed the Senate, but never came up for a vote in the House. *Id.*

<sup>29</sup> *Id.*