

# NCAA Athletes Sure to Face Tax Hit as Endorsement Checks Arrive

By Sam McQuillan

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- Vote suggests sports governing body is softening stance on divisive issue
- Comes amid legislative action at state level

The NCAA may need to let college athletes work with financial advisers now that the organization has said it will move toward a system that would let the athletes benefit from marketing themselves, several tax professionals said.

Current NCAA rules bar athletes—who generally aren't paid beyond the value of a scholarship—from hiring agents. But the Oct. 29 announcement—a step toward letting students earn money from the use of their name, image and likeness—will bring a slew of questions for the student athletes to answer.

It could mean that in the future college athletes—some as young as 17 years old—will need to keep careful track of expenses like flights and rides to paid signings and potentially report royalty income to the Internal Revenue Service.

“One would hope that the NCAA would not just throw the athletes out there without proper representation and expect them to negotiate on their own behalf these very important deals,” said Darren Heitner, founder of Heitner Legal, a sports law firm.

The vote by the National Collegiate Athletic Association's Board of Governors is a nod toward the pressure the organization has been under to allow some athletes to profit as a result of their labor. Earlier this month, California passed a law that would guarantee its college athletes the right to earn endorsement money, which has spurred other states such as Florida to consider their own legislation.

An NCAA working group will continue to gather feedback through April and refine its recommendations, according to the announcement.

The NCAA will need to think about letting “athletes enter into agreements with professionals who have the necessary expertise to make sure they're getting fair market value for their image,” said Matthew Mitten, the executive director of the National Sports Law Institute and a professor at Marquette University Law School.

## Teenagers Doing Taxes

Typically a financial adviser's relationship with an athlete starts once they become a professional, said John Karaffa, president of ProSport CPA PLLC, a Virginia-based tax and accounting firm.

Although there isn't currently a rule barring a college athlete from hiring an adviser, such a professional can't provide services to athletes without being compensated. That's meant to keep the athletes from promising to hire firms once they go pro in exchange for gifts.

“We can't go prospecting and giving them free services in hopes that they'll be able to pay us later on,” Karaffa said.

And since college athletes can't make endorsement money under the current NCAA rules, there's likely little incentive for them to make such a hire now.

The NCAA indicated it plans to make sure students aren't treated as university employees and maintain a "distinction between collegiate and professional opportunities."

When and if college athletes start receiving endorsement checks, they will face a number of tax decisions.

And if college athletes start receiving endorsement checks, they'll face a tax hit. The specific tax scenario could vary on the player—they'll have to consider whether they have endorsement income or royalty income, and weigh potential adviser fees, Karaffa said.

"There is going to be income tax to pay for very young individuals who never would've thought of filing their own tax returns," he said.

### **Legislative Push**

Just hours after the NCAA announcement, Sen. Richard Burr (R-N.C.) said in a tweet that he plans to introduce a bill that would tax scholarships for athletes that make money off their likenesses while in school.

Rep. Mark Walker (R-N.C.) proposed a bill (H.R. 1804) in March that would amend the definition of an amateur sports organization in the tax code to remove the restriction on college athletes receiving endorsements.

California's law goes into affect in 2023. One practitioner previously estimated that a small number of students there could potentially see income in the seven-figure range.

Florida Gov. Ron DeSantis (R) has backed legislation that would mean collegiate athletes in Florida could receive endorsements as early as 2020.

"I would not be surprised if other states do follow in the path of Florida and try and make a quick act to change the rules of their particular states and allow these college athletes the same rights as every other individual has," Heitner said.